

St. Brit. Court of Common Pleas 305

2205
THE JUL 3 CT.
R U L E S
AND
O R D E R S
Of the COURT of
C O M M O N P L E A S

A T

W E S T M I N S T E R.

Examined by the Original **R U L E S** and
O R D E R S.

Begun by Mr. *M I L L E S*, late Clerk of
the Treasury of the same Court, and
continued to *Trinity Term, 1732.*

With an Alphabetical TABLE to the whole.

In the SAVOY: Printed by E. and R. N Y T T, and
R. GOSLING, (Affigns of Edward Sayer, Esq;) for
J. Walthoe in the Middle-Temple Cloysters. 1732.

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The Court of Chancery of the Province of Michigan
will be held at Detroit, on the 1st day of October, 1654,
and continued to the 15th. The Court will consist of
one Justice, and two Justices of the Peace.

The Court of Chancery of the Province of Michigan
will be held at Detroit, on the 1st day of October, 1654,
and continued to the 15th. The Court will consist of
(including the Clerk) three Justices of the Peace.

Term. Mich. 1654.

Concerning Attorneys and Officers.

THAT all Officers and Attorneys of the Court be admitted of some Inns of Court or Chancery, by the Beginning of Hillary Term next, or in the same Term wherein they are admitted Officers or Attorneys; and be in Commons one Week in every Term, and take Chambers there; or in case that cannot be conveniently, yet to take Chambers or Dwellings in some convenient Place, and leave Notice with the Butler where their Chambers or Habitations are, under Pain of being put out of the Roll of Attorneys.

To be admitted
into Inns of
Court or Chan-
cery.

To be in Com-
mons;

And
To take Cham-
bers in the Inn
if it may be,
or else, &c.
Pain,

B

2. That

The Rules and Orders of

When they are
obliged to ap-
pear in Court
each Term.

Pain, 1 Default

2 Default.

3 Default.

Appearance to
be entred, and
Defaulters de-
livered in.

Sheriffs Depu-
ties in Court to
return and re-
ceive Writs.
Their Names
tabled with the
Clerk of the
Warrants.

Clerks of Assize
and their De-
puties.

Also Sheriffs
Deputies, &c.
to appear
by a certain
Day, and to
continue, &c.

Common Soli-
citors not to
practise, unless
admitted At-
torneys of ei-
ther Bench, &c.
Proviso.

2. That all Officers and Attorneys of this Court appear in Person in this Court, upon, or before the fourteenth Day of *Michaelmas* Term; and upon, or before the seventh Day of every other Term, upon pain of ten Shillings for the first Default, twenty Shillings for the second Default, and putting out of the Roll for the third Default. The appearance to be entred with the Clerk of the Warrants, and the Defaulters to be delivered to the Court upon Oath (if required) within three Days after the Time required for Appearance.

3. That every Sheriff have his Deputy in Court to return and receive Writs, and that each Deputy yearly before *Hilary* Term have his Name and the Place of his Residence in *London* and *Westminster*, set and continued up in Tables, in the Office of Clerk of the Warrants.

4. That the Clerks of Assize, their Deputies or Assistants, do personally appear with their *Posteas* on the first Day of *Easter*, and *Michaelmas* Term; and the Deputy Sheriffs and all other Officers of the Court do personally appear by the *Essoin-Day* of every second Return of every Term; and continue there during the Residue of the Term, without some just Cause to the contrary allowed by the Court.

5. That for the future Common Solicitors be not admitted to practise in this Court unless they are admitted Attorneys of either Bench; provided that it extend not to the managing of Evidence at a Trial, nor to Private Solicitors or Servants of Corporations,

the Court of Common Pleas.

3

tions, or other Persons in the Cases of their Masters.

6. That none be admitted an Attorney of this Court for the Time to come, unless he hath practised as a Common Solicitor in this Court by the Space of five Years now last past; or hath served, or shall have served by the Space of five Years as a Clerk to some Judge, Sergeant at Law, practising Counsellor, Attorney, Clerk or Officer of one of the Courts at Westminster, unless his Master die or give over his Practice, and be also upon Examination found of good Ability, and Honesty for such Employment; and that sufficient Proof (to be put into Writing) be made of such Service to the Prothonotary upon a Desire of Admittance, and filed with the Clerk of the Warrants without Fee.

Nor any Attorney to be admitted unless he has practised as a Common Solicitor for five Years past.

Or served as Clerk to a Judge, Sergeant, Counsellor, Attorney, &c. Unless, &c.

Proof of Service to be filed with the Clerk of the Warrants.

7. That no Person practise in another's Name, nor that any Attorney knowingly permit another to practise in his Name, upon Pain of being put out of the Roll, excepting in Warrants of Attorney for common Recoveries.

Practising in another Man's Name.

Pain: Common Recoveries excepted.

8. That Attorneys dismissed by one Court from their Practice for Misdemeanor, be not (after Certificate) admitted to practise in another Court, it being contrary to the Intent of the Law.

Attorneys dismissed one Court not to be admitted in another.

9. That no Under-Sheriff or Bailiff of Sheriffs or Liberties be admitted during such their Employment to practise as Attorneys, under Pain of Expulsion from the Employment of an Attorney, and not to be re-admitted.

Under-Sheriff, Bailiffs, &c. not to practise as Attorneys during, &c. Pain.

B 2

10. That

The Rules and Orders of

Attorney having not attended, &c. to have no Privilege allowed.

No Attorney to be Lessee in Ejectment or Bail in any Action.

i o. That such Attorneys as have not been attending their Employment in this Court by the Space of one Year last past, unless hindered by Sickness, be not allowed their Privilege of Attorneys.

ii. That for the Prevention of Maintenance and Brocage, no Attorney be Lessee in an Ejectment, nor Bail for a Defendant in this Court in any Action.

Cognoscere

Concerning Sheriffs and Bailiffs.

THAT for the Prevention and Remedy of Delays and Abuses in Sheriffs, Under-Sheriffs, Bailiffs of Liberties and their Deputies, and other Bailiffs of Sheriffs, &c. in Execution of Process and Writs. That if it shall appear that any such Officer shall wilfully delay the Execution or Return of any Process or Execution or shall take or require any undue Fees for the same, or shall give Notice to the Defendant, thereby to frustrate the Execution of any Process or Writ, or having levied Money, shall detain it in their Hands after the Time of the Return of their Writs, besides the ordinary Course of Amerciaments (the Contempt or Misdemeanor appearing, an Attachment, Information, Commitment, or Fine to be, as the Case requireth. And this as well in the Case of a late Sheriff, or Person beforementioned, as of them at present in Office.

And whereas Sheriffs have taken immoderate and excessive Fees for Execution of Writs of Possession, or Restitution of Possession, contrary to Law; it is declared that such immoderate Fees ought not to be taken; and in case such shall be taken, the Court to proceed to punish the same according to Law, upon Complaint thereof made.

That to reform Abuses by blank Warrants granted by Sheriffs, whereby Persons are arrested, and driven to extorted Com-

Sheriffs, &c.
not executing
Process, or not
returning them.

Or taking un-
due Fees,
Or giving De-
fendant Notice,
Or detaining
Money levied.

To be punished
as the Case re-
quireth,
And to extend
to late Sheriffs,
&c.

Sheriffs to be
punished for
taking immo-
derate Fees up-
on Writs of
Possession and
Restitution.

Blank War-
rants to arrest
not to be used.

The Rules and Orders of

No Warrant to positions for their Liberties without Process arrest till a of Law; that no Warrants be granted out to Writ first come to any Officer to arrest or attach any Person before a Writ first come to the Sheriff.

Concerning the Reformation and Punishment of Abuses in general.

Jury of Attorneys to inquire of Abuses.

Viz. Falsities, Contempts, &c.

Attorneys and Clerks admitted notoriously unfit.

Punishment of such.

Of new or exacted Fees taken. And to present a Table of Fees.

The Witnesses to give Evidence, to be some Clerks, some Attorneys, in every Country.

Ordered, That a Jury of able and credible Officers, Clerks and Attorneys, once in three Years be impanelled, and sworn to enquire.

1. Of the Points usually inquirable by the Writ, viz. Falsities, Contempts, Misprisions and Offences.

2. Of such who have been admitted Attorneys or Clerks, and are notoriously unfit, their Names to be presented to the Court, and they to be punished or removed, as the Case shall require.

3. Of new or exacted Fees, and of those that have taken them, under whatsoever Pretence, and to prepare and present a Table of the due and just Fees, that the same may be fixed and continue in every Office; and likewise for the Fleet.

And that some Persons be enjoined and sworn to give Evidence, viz. some Clerks of the Court, and some Attorneys in every County, not excluding others.

Con-

Concerning the better Preservation of Order among the Officers and Clerks, and Observation of Breach of Orders and Misdemeanours.

THAT the Court do once every Year in ^{Twelve to be chosen yearly by the Court.} Michaelmas Term nominate twelve or more able and credible Practisers in the Court to continue for the Year ensuing, for these Purposes hereafter limited.

That they or any six of them examine such Persons as shall desire to be admitted Attornies, and appoint convenient Times and Places for the same: And in order thereunto that such Persons as shall desire to be admitted Attornies first attend the Prothonotary with his Proof of Service, then to repair to the Persons appointed to examine Attornies, and being approved, to be presented to the Court with the Assignment of his Approbation, and then to be sworn in open Court, unless some just Exception be against him.

Such first to attend the Prothonotary. Then the Examiners. And if approved, to be sworn in open Court.

That they give Information to the Court from Time to Time of Breaches of Orders, and Miscarriages of Officers, Attornies and Clerks.

To inform the Court of breach of Orders, &c.

That a settled Course of Practice and Proceedings be settled, especially in those Cases where there hath been Uncertainty, and that the Inconveniences in Process, Proceedings and Pleadings may be regulated in a due Course. In order whereunto these several Things are ordered and directed according to the Method of Proceedings.

F. Concerning the Entring of Records and the Persons by whom.

Rolls to be delivered only to Clerks or entring Attornies.

A Table to be set up of those who may come to the Rolls in the Treasury.

For their Occasions or Instruction Prothonotaries Clerks to attend the Office, &c.

THAT no Rolls be delivered to be entred but only to Clerks, or such Attornies as have entred for the Space of four Years last past, for themselves.

That a Table be set up of the Names of the Officers and Clerks that are to be admitted unto the Rolls of the Treasury: And that such and no others be admitted thereunto, and that they may resort there as well for their Occasions, as for their Learning and Instruction, during the Term, and also twice in every Week from a Month after the Term, and that every such Clerk duly attend as well the Prothonotary's Office in the Term-Time as for the entring of Judgments upon Summons given by the Prothonotary respectively.

For

*For the Prevention of the undue Issuing
of Judicial Writs; and Falsifying of
Records, It is ordered,*

THAT all Executions, and all other Writs issuing out of the Prothonotaries Offices be duly signed by the respective Prothonotaries before the same be sealed, and that no Exemplification of any common Recovery, or other Record which ought to be examined and signed by the Prothonotary, be sealed before the same have been signed by the Prothonotary. Nor that any Exemplification (excepting Exemplifications of Fines and common Recoveries of the present or next precedent Term) be sealed before they be first signed and examined by the Clerk of the Treasury.

And because the Intermeddling and Dealing of Clerks in more than one Prothonotary's Office at one Time, hath been an Occasion of Disorder and Uncertainty in Proceedings: It is likewise ordered, That every Prothonotary's Clerk do apply himself from henceforth to one Prothonotary's Office only, and do give his Attendance and make his Entries in that Prothonotary's Office.

Prothonotary
to sign all Ex-
emplification,
Executions, and
other Writs out
of his Office
before Sealing.
All Exemplifi-
cations after
two Terms to
be sign'd by
the Clerk of
the Treasury
before Sealing.

Prothonotaries
Clerks must
enter but in
one Office.

2. Concerning Rolls and Records, and their Entries and Bringing in.

Causes to be proceeded on in the same Office in which begun.

No Rolls must be carried into the Country.

Rolls, except Easter, when to be brought in.

Under Pain of 10s. per Roll.

No Rolls to be delivered to such Person offending twice,

&c.

Names of Defaulters to be given into Court.

Rolls to be delivered to the Clerk of the Warrants. With a Note of Care.

THAT the whole Proceedings of any Cause after Appearance be carried on in the Office of that Prothonotary where it was first entred, or Declaration delivered.

That no Rolls be carried into the Country, under Pain that the Offender be excluded from entring any more Rolls afterwards as a Clerk.

That the common Rolls of every Term, except Easter, be brought in to the Prothonotary fairly entred, and docketted at least ten Days before the Essoin-Day of the succeeding Term, under Pain of ten Shillings for every Roll wanting.

And that no Rolls be delivered to such Person after any such Offence the second Time, without special Order.

That the respective Prothonotaries before the third Day of the then next Term, do give in the Names of the Defaulters and Defaults unto the Court in Writing.

That the Rolls brought in to the Prothonotary be delivered over to the Clerk of the Warrants the Day before the Essoin-Day of the ensuing Term, together with a Note of the Rolls that are wanting, the same Note to be subscribed by the Clerk of the Warrants, and re-delivered to the Prothonotary.

That

the Court of Common Pleas.

11

That the Clerk of the Warrants within five Days after Receipt of the Rolls from the Prothonotary, to deliver over the common Rolls to the Clerk of the Essoins, taking the like Note from the Clerk of the Essoins of the Rolls wanting.

Clerk of the
Warrants to
deliver them to
the Clerk of
the Essoins.

That the Clerk of the Essoins bind up the Rolls, *viz.* the first Part before the Appearance-Day of the second Return, the second Part before the Essoin-Day of the third Return, the third Part of the Essoin-Day of the next Term.

Time when the
Clerk of the
Essoins to bind
them.

That the Rolls of *Easter-Term* be brought to the Prothonotary, on or before the first Day of *Trinity-Term*, delivered to the Clerk of the Warrants within six Days, to the Clerk of the Essoins within five Days after, to be bound up before the Essoin-Day of *Michaelmas-Term*, each Party subscribing the like Notes, and the Penalties the same as before.

Rolls of Easter-
Term, how to
be brought in,
&c.

Concerning Original Suits and Process, and where laid.

That Actions upon the Case, Trespass for Goods, Assault or Imprisonment arising in any English County, be laid in their proper Counties, unless they arise where Justices of *Nisi prius* seldom come. And because Trespass or Trover for Goods, Battery, Imprisonment and Slander must needs be notorious in what County they arise; the Attorney knowingly laying

Case, Trespass,
Assault or Im-
prisonment to
be laid in their
proper Coun-
ties, unless, &c.
Attorneys lay-
ing Actions of
Trespass, Tro-
ver for Goods,
Battery, Impris-
onment and
Slander.

The Rules and Orders of

In Foreign
County unless,
&c.

To be severely
punished.

Visne, where
changeable in
transitory Ac-
tions.

When to plead
thero. How
changed when
Defendant
comes in by
Exigent.

ing them out of the proper County (unless in the Cases before expressed, or for such other Causes as shall be allowed by a Judge of the Court, and duly made appear to be true) to be severely punished.

That although the Declaration be delivered seven Days before the last Day of the next precedent Term, or after, yet before Plea, upon Oath made, the Visne may be changed upon Motion in the said transitory Actions the next Term after: And the Defendant to plead to the new Action, as he should have done in the other without Delay.

That the Visne may be changed (upon Oath) as before, tho' the Defendant come in by Exigent.

Concerning Process, and serving thereof.

Proclamations
on Exigents,
*for Stat. 31
El cap. 3.*
To be carefully
delivered and
proclaimed.

Of Bondstaken
for Appearance,
*for Stat. 23 H.
6. cap. 10.*

Unless there be
Acceptance of
Appearance
without Bail by
the Plaintiff.

THAT according to the Provision of the Statute of the one and thirtieth Year of Queen Elizabeth, all Attornies that sue out Process of Exigent be careful that Writs of Proclamation be delivered, and the Sheriff do take care duly to execute the same.

That according to the Statute of the twenty-third Year of Henry the Sixth, a Prisoner taken upon a Capias in Process be not discharged till he hath given Bond to appear, unless the Plaintiff, or his Attorney, shall consent to take an Appearance without Bail. And in such Case the Warrant of Attorney

Attorney to appear, to be subscribed or accepted by the Defendant's Attorney, and such Warrant not to be revoked, and an Attachment to be granted against the Bailiff offending herein, or against the Attorney refusing to appear or procure an Appearance, having so subscribed or accepted.

Defendant's
Warrant of
Attorney to be
subscribed and
not to be revo-
ked.

Attachments a-
gainst the OF-
fender.

And forasmuch as divers Sheriffs, Bailiffs of Liberties, and their Bailiffs respectively have of late Time, contrary to Law, and against former Orders of this Court, discharged Persons taken upon Outlawries without *Supersedeas*; it is hereby declared, that such Dealing is an Abuse; and that all such, who have or shall discharge such Persons without *Supersedeas*, shall be severely punished. And that no Sheriff, Under-Sheriff, their Deputies or Bailiffs, may from henceforth discharge, or set at Liberty, any Person or Persons arrested upon any *Capias utlagat*, until he receive a *Supersedeas* according to Law from the Officer or Officers thereunto appointed.

Persons taken
upon Outlaw-
ries not to be
discharged
without a *Supersedeas*.

The Officers,
&c. offend-
ing to be severely
punished.

Concerning a Habeas Corpus to Sheriffs and Gaolers.

THAT a *Habeas Corpus cum Causa ad fa-
ciendum & recipiendum*, directed to any Sheriff (other than London or Middlesex) not to be returnable immediate, or in the Vacation-Time, but at a Day certain in Court in the Term,

*Habeas Corpus
cum causa ad
faciendum &
recipiendum
shall not be
made return-
able immediatly.*

That

The Rules and Orders of

Except in London and Middlesex.

And then the Sheriff must return the Writ presently, and bring the Body immediately,
Or.

Prisoner to be brought in Custody at the Day, and not permitted to wander in the mean Time.

Habeas Corpus ad respondendum may be granted to a Keeper, &c. Upon ret' non est inventus sur Capias.

And to be a good Cause of Detainer, &c.

Habeas Corpus ad satisfaciendum may be granted in like Manner, and the Number Rolls to be endorsed by the Attorney.

That such *Habeas Corpus* to the Sheriff of London or Middlesex may be granted in Term or Vacation-Time returnable immediate.

That in Case of *Habeas Corpus* returnable immediate, the Sheriff ought to make his Return the same Day that the Writ is delivered, and to bring the Body immediately as is required by the Writ, without permitting him to wander abroad by Colour or Pretence thereof.

That where a Writ of *Habeas Corpus* is directed to a Sheriff, Warden of the Fleet, Marshal or Gaoler, the Prisoner is to be brought in Custody, according to the Writ at the Day limited, without being permitted to wander abroad in the mean Time, upon Pretence of such Writ.

That a *Habeas Corpus ad respondendum* may be granted to the Warden of the Fleet, or to the Keeper of an inferior Prison of a Liberty or Franchise, where a *Capias* is returned in Court, *Non est inventus*; such Writ to recite shortly the *Capias*, and to be returnable at a Day certain in Court, and to be a good Cause of *Detainer*, as well as where a *Capias ad respondendum* comes to a Sheriff.

That a *Habeas Corpus ad satisfaciendum* may be granted to the Warden of the Fleet, or to such inferior Gaoler returnable in Court at a Day certain, and the Number Roll of the Judgment to be endorsed upon the Writ by the Attorney who sues it out; and such Writs to be a Cause of Detainer.

That

the Court of Common Pleas.

15

That if upon a *Habeas Corpus* the Prisoner be returned charged with Process out of the upper Bench or Exchequer, and out of the Common Pleas, the Prisoner may be committed with the Causes.

If charged with
Process in up-
per Bench or
Exchequer, and
out of Common
Pleas, he may
be committed.

That if upon a *Habeas Corpus cum causa* the Prisoner be returned charged with a Process out of the Common Bench, though returnable next Day to come, the Prisoner may be committed with his Cause.

Commitment
on Process at a
Day to come.

That upon a *Habeas Corpus*, or *Cepi Corpus*, the Party be returned in Custody and bailable, and special Bail requirable, the Bail not so to be taken absolutely without Consent of the Plaintiff, or his Attorney; and if *de bono esse*, the Prisoner not to be discharged till the Bail be assented unto, or the Plaintiff over-ruled in Court to accept the same upon Examination.

Of taking Bail
upon *Ha'c cor'*
or *Cepi cor'*.

De bono esse, but
not to be dis-
charged until
the *Ct.*

That upon every Commitment by a Judge out of Court, the Prosecutor of the *Habeas Corpus* is to have one of the Prothonotaries Clerks present at the Turning over of the Prisoner, that the Commitment may be duly entered and filed.

Upon Commit-
ment of a Pri-
soner.
Prothonotary's
Clerk to be
present.

Concerning Habeas Corpus to Inferior Courts and Procedendo.

THAT Writs of *Habeas Corpus*, directed to the inferior Courts of London, Westminster, Southwark, and other Courts within five Miles of London, may be returnable immediate. And if the Defendant intendeth

Of removing
Causes by *Ha-
beas Corpus* out
of inferior
Courts within
five Miles of
London res' im-
mediat.

The Rules and Orders of

eth to be bailed, then upon, or within four Days after Allowance of the Writ, Notice is to be given in Writing of the Names and Addition of the Bail, the Time when, and the Judge before whom the same is intended

If Bail is in-
tended, Notice
must be given
to the Plaintiff,
&c.

If not to be
found, then to
the chief Clerk,
&c.

Oath to be
made of such
Notice, other-
wise a *Proce-
dendo*.

And if no Bail
within eight
Days, a *Proce-
dendo* may be
granted.

Bail must be
taken *de bene
esse* in the Ab-
sence of the
Plaintiff, *&c.* If
no Exception
within twenty
Days, the Bail
to be filed.

If not filed
within four
Days after the
twenty, then a
Procedendo may
be granted.

That if no Bail in such Cases be put in within eight Days after the *Habens Corpus* allowed, in those Courts when it is returnable immediate a *Procedendo* may be granted by any Judge of this Court, if desired before Bail taken.

And if Bail be taken in the Absence of the Plaintiff, or his Attorney, the same is to be taken *de bene esse*; and if no Exception be taken within twenty Days after Notice given to the Plaintiff, or his Attorney, of the Names of the Bail, and before whom taken, then upon Oath made of such Notice, the Bail to be delivered out to be filed.

That if Bail upon a *Habeas Corpus* be taken before a Judge at his Chamber, and not excepted against, if not filed within four Days after the twenty Days, a *Procedendo* may be granted upon Certificate that it is not filed.

That

the Court of Common Pleas.

That in Term-Time the Plaintiff in the inferior Court may speed the Defendant to put in, or to file his Bail by Rules given in the Bill of Pleas; and if not filed according to Rules, upon Certificate thereof, a Procedendo to be granted.

That all Writs of *Habeas Corpus* returnable in Court, be returnable at a Day certain.

That upon Bail taken of a Person in Custody, the Judge's Clerk to deliver the Bail to the Prothonotary, to be fil'd, if assented unto; and to that End the Prothonotary's Fees to be deposited, but the Prisoner not to be discharged, until the Bail be assented unto, or over-ruled in open Court.

Concerning special Bail.

THAT if the Defendant appear upon the Summons, Attachment, or Distress, or by *Supersedens quia improvidis*, or doth truly render himself upon the Exigent, no Bail is requirable.

That in all Causes of Removal, be it by *Habeas Corpus*, Privilege, or *Certiorari*, special Bail ought to be given.

That in Causes where the Defendant comes in by *Cepi corpus*, be it Debt, Detinue, Trespass for Goods, Action upon the Case (except Slander) if the Debt or Damages amount to twenty Pounds, special **C.** **Bail** Also on top
Corpus if Debt or Damages ~~do~~
amount to 20*£*

The Rules and Orders of

In Slander and
against Heirs,
Ex' and Ad'
excepted.
In Covenant
Bail at Discre-
tion.

No Bail of
Course in Bat-
tery, &c.

Nor in Slander,
except Slander
of Title.

In Privilege no
Bail excepted
for Fees.

Where the Ori-
ginal is to be
shewn with the
Declaration.

Unless the De-
fendant will
voluntarily
take the Decla-
ration.

Upon a Re-
moval out of
Interior Court.
The new Ori-
ginal must not
vary from the
Action, unless
the Party will
voluntarily ap-
pear to such
Actions re-
mov'd from
Courts of
Towns and
Counties, where
the Judges sel-
dom come, must
be laid in the
County where
the Town and
County lieth.

Bail is to be given, except it be against an
Heir, Executor or Administrator.

That in Covenant, because the Damages
uncertain till Declaration, Bail at Discre-
tion.

That in Battery, Conspiracy, false Impris-
onment, no special Bail of Course without
special Motion and Order.

That in Slander no special Bail, except in
Slander of Title, wherein to be left to the
Discretion of the Judges.

That in Privilege, other than for Fees and
Disbursements, as an Attorney in this Court,
Bail at Discretion of the Court. In such
Case where in a Suit by a common Person,
special Bail is not requir'd.

That, if Bail be given upon Reversal of an
Outlawry, or Removal by *Habeas Corpus*,
the Original be shewn upon tendering of the
Declaration; otherwise the Bail not liable;
unless the Party or his Attorney will volun-
tarily appear, or take a Declaration, without
shewing of it.

That in Case of a Removal out of an in-
ferior Court, or Reversal, the new Original
to agree in the Nature of the Action, the
Sum in Demand, and the County; otherwise
the Bail not liable; but if the Party will volun-
tarily appear to such varying Original,
to be good as to the Party; but if upon a
Cause removed by *Habeas Corpus*, out of
the Courts of Canterbury, Southampton, Hull,
Litchfield or Pool, which are Counties where
the Judges of *Nisi prius* seldom come, if
the Action be transitory, it must be laid in
the County of Kent, Southampton, York,
Stafford,

Stafford, or Dorset, where the Town and County lieth, and the Recognizance to be taken accordingly.

That the Principal rendering himself at any time after Bail put in, and before or upon the Day of Appearance of the *scire facias* returned, *scire faci*, or of the second *scire facias* returned *nihil*, or in case there shall be an Action of Debt brought upon the Recognizance against the Bail, then if the Principal shall render himself upon or before the Process returned served, no further Proceedings to be against the Bail.

When the Principal may render himself in Discharge of his Bail upon *scire faci*, &c.

Concerning Appearances, and Entries thereof.

THAT Appearances be duly entred with the Prothonotaries or Filizers of this Court respectively, with whom the same ought to be entred; but if special Bail be requirable in the Case, the Plaintiff not to be concluded by such Appearances, if he insist upon it.

Appearance to be duly entred.

That where an Appearance is upon the original Writ, if the Defendant's Appearance be not entred of Record, the Defendant's Attorney to give his Hand to the Plaintiff's Attorney upon the Delivery of the Declaration that he appeareth thereunto.

But Plaintiff not to be concluded if special Bail is required.

That any Attorney of either Bench accepting a Warrant to appear, or subscribing a Process, Declaration or Warrant to appear, be compelled to cause Appearance,

Attorney's Hand upon Delivery of Narr.

The Rules and Orders of

No countermanding such Appearance.

No changing an Attorney without Rule or Order.

Retainer by Attorney of one Court from an Attorney of another Court is sufficient.

Where a Prisoner of the Fleet shall appear (upon a *Ha' Cor. ad respon'*) at a Stranger's Suit.

An Attorney of Record to be present at Reversal of an Outlawry for the Defendant, &c.

or to be liable to an Attachment, or put out of the Roll, as the Case requires; and the Party not to be received to countermand such Appearance after his Retainer.

That no Person without Rule of Court, Order of the Judge or Prothonotary, and Notice to the adverse Party or his Attorney, change or shift his Attorney; and such Attorney newly coming in, to take Notice at his Peril of the Rules whereunto the former Attorney was liable, had he continued,

That a Retainer of an Attorney of the Common Pleas, by an Attorney of the Upper Bench, & c *Converso*, be a sufficient Excuse to the Attorney so retained, acting according to such Retainer, and the Attorney so retaining without Warrant from the Party, to be subject to the Punishment.

That if a *Capias* be returned in Court non est inventus, against a Prisoner in the Fleet, he be compellable to appear upon a *Habeas Corpus ad respondendum*, as well at the Suit of a Stranger, as at his Suit whereupon he is imprisoned, and to answer to a Declaration according to the Rules of the Court, or that Judgment be entred against him.

That he that reverseth an Outlawry have an Attorney of Record present, who must undertake an Appearance to a new Original. And such Attorney shall be compelled to appear; and that the Defendant or his Attorney give Notice to the Plaintiff or his Attorney of such Reversal the same Term, or in the Vacation next after it.

Concern-

Concerning Imparlements.

THAT forasmuch as some Inconveniences do sometimes happen to Plaintiffs by entring their Declarations in special Actions, it is therefore ordered, that the Plaintiffs in such special Actions shall have Liberty to enter the Imparlements the Term following, entring the same of the first Term with an *Incipitur*, as it hath been usual in *Quare Impeditis*; but that all other Imparlements be duly entered before any Issues, Demurrs or Judgments thereupon be entred.

That if the Defendant appear the first Term, and give no Rules to declare, the Defendant's Attorney may the second Term be compelled to accept of a Declaration with Imparlement, and the Declaration may be entered as of that Term, with an Imparlement over to the next Term, or in the first Term with an *Incipitur* as before, as the Case shall require.

That if the Plaintiff declare not the second Term, though the Defendant give no Rules, yet a Nonsuit may be entered at the End of the second Term upon a Continuance over by him entered by *dies datus*, but not the third Term, or after.

That upon a mere real Action, or a bare *clausum fregit*, an Imparlement of Course, But in Dower after View had, if the Day to appear be upon the first Return of any

Of Liberty to enter Imparlements.

Entering the same with an *Incipitur*, &c.

Attorney is compellable to accept a Declaration with Imparlement, &c.

When the Plaintiff may be Nonsuit, tho' no Rules given.

Imparlement of Course, &c.

The Rules and Orders of

Hillary or Trinity Term, no Imparience without Consent or Rule of Court.

Where no Imparience without Consent or special Rule, except in London, &c.

That in Ejectment or any personal Action, if the Appearance be the first Return of *Hillary or Trinity Term, no Imparience without Consent or special Rule in such Causes, other than in London or Middlesex.* If the Appearance be before *Craftin' Martin' or mense Pasch.* no Imparience without Consent or special Rule. But if upon or after those Returns, an Imparience of Course.

Where none in London, &c. without Consent or Rules.

In London or Middlesex, if the Appearance be before *Craftin' Ascen.* or before the last Return of any other Term, no Imparience without Consent or special Rule; but the Defendant to plead as of that Term, within fourteen Days after the End of the Term upon Rule given to answer; but if of *Craftin' Ascen', or the last Return,* then an Imparience of Course.

Concerning Rules to Declare and Plead.

No Judgment by *nihil dicit* be entered until Rule given to plead and the Day past.

Rules how to be entered, &c.

That no Judgment by *nihil dicit* be entered until there be a Rule to plead, first given in that Prothonotary's Office where the Cause is entered, and the Day by such Rule be past, and that such Rules be only given in the Bills of Pleas, or other Remembrances for that Purpose, only to be in the Custody of the Secondary of the respective Prothonotaries, during the Time limited for giving Rules, to the Intent that

that all Persons concerned may have Recourse to the said Secondary, and to see the same *Gratis*; and that Clerks who usually enter for Attorneys, may give Rules for Answer in the said Remembrances in all their own Causes wherein there hath been Imparlices, except in Ejectments, so as they enter the same Rules in the Office without carrying any of the said Remembrances out of any of the said Offices; and that the Secondary set down upon the Remembrances the Day wherein such Rules are given, and that no Rules to declare or Answer be given after three Days exclusive after the End of any Term, and such Rule to be out at four Days inclusive of the Day wherein the same is given.

That in all Actions except Replevin (after Rules to declare are out, yet) if the Plaintiff or his known Attorney or Clerk be to be found, a Nonsuit for want of a Declaration not to be entered, unless the Plaintiff's Attorney or Known Clerk be first called to for a Declaration,

That if the Plaintiff's Attorney or Clerk be called to for a Declaration, and delivers it not to the Defendant or his Attorney sometime during that Term, then the Rule being out the Defendant's Attorney may enter a Nonsuit.

That if the Plaintiff's Attorney being called to for a Declaration cannot afterwards find the Defendant's Attorney or Clerk, to save a Nonsuit, he may deliver a Declaration into the Prothonotary's Office where the Rules are given.

When Clerks
may give and
enter Rules.

Remembrance
not to be car-
ried out of the
Office.

Day to be set
down.
When none
may be given.

When after
Rules to de-
clare are out,
no Nonsuit for
want of a De-
claration.

Where may be
a Nonsuit, the
Rule being out.

When the De-
claration may
be left in the
Office.

The Rules and Orders of

Where a Deed,
&c. must be
shewn, else no
Judgment, &c.

That, when a Deed, Will or Letters of Administration are to be shewn in a Declaration, the Attorney of the Plaintiff delivering a Declaration with a Subscription, that the Defendant shall not be compelled to plead till the same be shewn, no Judgment by *nihil dicit* to be entred against the Defendant till the same shewn; nor any Nonsuit upon the Plaintiff, if he shew the same before the End of the next Term.

Where upon
Commitment
of a Prisoner,
he may be dis-
charged by Su-
persedeas, &c.

If the Defendant be committed to Prison by Process out of this Court, or *Habeas Corpus*, the Prisoner entring his Appearance with the Prothonotary in case of a Plain, or in case of Attachment of Privilege; or with the Filizer in case of other Process, and giving Rules to declare, the Plaintiff not declaring before the End of the next Term after the Commitment, the Defendant in Reference thereto to be discharged of his Imprisonment by *Supersedeas* in the End of the next Term, and Liberty for the Plaintiff to declare upon that Appearance the next Term after that at the furthest.

Where upon
Return of a
Writ and want
of Declaration
the Plaintiff
may be non-
sued.

That, if a Writ be returnable *quinque
Pas.* or the last Return of any Term, the Defendant giving Rule, and calling for a Declaration, if it be not delivered according to the former Directions, four Days or more before the Essoin-Day of the ensuing Term, may enter a Nonsuit, though above sixteen Days after the preceding Term.

That

the Court of Common Pleas:

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That the Plaintiff having declared and given Rules for Answer, the Defendant is to deliver his Plea in Writing to the Plaintiff's Attorney or known Clerk.

When the Defendant's Plea may be delivered,

That if there be no such Attorney or Clerk to be found, or being found, refuseth to accept it, then the Plea may be left in the Office to save a Judgment.

When left in the Office,

That in any Case where a Plea or Declaration is left in the Office, no Nonsuit for Want of a Declaration, or Judgment for Want of a Plea to be entred.

No Nonsuit is so left.

That in Cases of popular Actions and Informations, or real or mixt Actions, except Ejectment, no Judgment to be entred by Default, or *Nil dicit*, without Motion in Court.

When no Judgment by *Nil dicit*.

That upon *Nul tiel* Record pleaded, and no Difficulty or Variance appearing, Judgment be entred after Rule, without Motion by the Plaintiff.

When Judgment may be without Motion.

That after any Impariment of three Terms, without any Calling for Answer, no Judgment to be entred without a Term's Notice.

Where a Term's Notice must be.

Concern-

The Rules and Duties of

Concerning Declarations.

Repetitions to
be avoided.

FOR avoiding of long and unnecessary Repetitions of the Original Writ in Actions upon the Case, and personal Actions upon penal Statutes.

When only
Entry, the Na-
ture of the Ac-
tion must be
repeated.

That Declarations in Actions of Trespass upon the Case, or personal Actions upon any general Statute; namely, Hue and Cry, *Monopolies*, and for Suits in the Admiralty, and such like, other than Debt, repeat not the Original Writ, but only the Nature of the Action, *viz.* *A. B.* was attach'd to answer *C. D.* in a Plea of Trespass upon the Case, or in a Plea of Trespass and Contempt, against the Form of the Statute.

For the Avoiding of the Common Bar and new Assignment.

How the com-
mon Bar may
be avoided.

THE Declaration upon an Original, or Bill, *Quare clausum fregit*, may mention the Place certainly, and so prevent the Use and Necessity of the common Bar and new Assignment.

How the un-
necessary
Length of De-
claration.

That unnecessary Length of Declarations be forborn. And in order thereto,

That

the Court of Common Pleas.

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That in Actions of Covenant not to repeat more of the Deed than is necessary for the Assignment of the Breach, and not to repeat the Covenant in the Conclusion.

How in Cov-
enant.

That in Actions of Slander long Preambles be forborn, and no more Inducement than what is necessary for the Maintenance of the Action, when it requires a special Inducement or *Colloquium*.

How in Slen-
der.

That in Actions upon general Statutes the Declaration not to repeat the Statute, but to conclude against the Form of the Statute in such Case made and provided; as in Case of Debt, upon the Statute of 2 E. 6. For Tithes, the 32 H. 8. for Maintenance, and 21 Jac. of Monopoly.

How upon ge-
neral Statutes.

That Action of Debt upon a Judgment had in the Courts at Westminster, to recite only the Judgment. But if a Judgment had by or against an Executor or Administrators, Dept thereupon to repeat the Declaration and Judgment.

Upon Judg-
ments at
Westm.

That before the Declaration actually entered the Plaintiff may amend his Declaration, paying Costs, or giving an Imparlane, at the Plaintiff's Election, by the Order of a Judge of the Court, or Prothonotary: But after it is entered, if the Amendment be but a small Matter, that doth not deface the Roll, yet that before Issue or Demurrer entered, it be amendable by Rule of Court upon Costs, and Liberty to plead, with a new or further Imparlane.

When a Decla-
ration may be
amended upon
paying Costs,
&c.

How after it is
entered.

To

The Rules and Orders of

To cause Care in Examination of the Declaration.

When the Copy of Declaration delivered varies from the Original.

THAT if the Plaintiff's Attorney or Clerk deliver a Copy to the Defendant's Attorney or Clerk, materially varying from the original Declaration, the Disadvantage thereof not to be cast upon the Defendant, but on the Plaintiff, whose Attorney is paid for it.

Concerning Pleading.

Where common Bars, &c. are to be forborn.

THE Common Bar and new Assignment be forborn, where the Declaration contains the Certainty equivalent to a new Assignment.

That Pleadings be succinct, without unnecessary Repetitions.

That in the Pleading of an Outlawry the mesne Process be not repeated, but the Exigent and Outlawry joined to the commencing of the Suit.

That in pleading a general Statute, the Statute be not recited, as the Statute of 21 Jac. of Limitations.

How to plead in an Outlawry or,

A general Statute.

Concern-

Concerning Demurrs.

THAT according to the Statute of 27 of Eliz. upon Demurrs, the Causes be specially assigned, and not involved with general unapplied Expressions of double, negative pregnant, uncertain, wanting Form, and the like, but to shew specially wherein, that the other Party may (as the Case shall require) either join in Demurrer, or amend, paying Costs, or discontinue his Action.

Causes to be
specially af-
firmed.

That if it be declared, that Matters of Form, as well on the Part of him that demurs, as of him that joins in all Parts of the Pleading, are discharged; unless such as are especially assigned upon the Demurrer.

Matters of
Form to be
especially af-
firmed.

*Concerning Trials, and Notice of Trials
and Inquiries.*

THAT Notice of Trials or Inquiries in London or Middlesex (the Defendant dwelling within forty Miles of London) be eight Days exclusive of the Day wherein Notice is given.

When eight
Days exclusive,
Notice near
London, &c.

That, if the Defendant live above forty Miles distant from London, Notice of such Trials and Inquiries in London or Middlesex be fourteen Days, exclusive of the Day of Notice.

Where four-
teen Days
exclusive.

That

The Rules and Orders of

Issues to be
ingrossed.

And entred in
the Marshal's
Book.

Eight Days
Notice exclu-
sive in the
Country.

When new
Notice is to be
given in the
Country.

When in Lon-
don, &c.

Where Costs of
Attendance.

Unless Cause
shewn, &c.

That in all Issues to be tried by *Nisi prius* in *London* or *Middlesex* upon a Record of a precedent Term, the Copy of the Issue be brought to the Clerk of the Treasury, for the Ingrossing of the Record, four Days at the least before the Day of Trial of such Issue, and that all Causes to be tried in *London* or *Middlesex* be entred into the Marshal's Book four Days before the Day of Trial.

That eight Days Notice exclusive be given upon Trials in the Country, and upon Writs of Enquiry of Damages in Writs of Dower and Waste, and all other Inquiries of Damages.

That, if the Plaintiff give Notice of a Trial, and he proceed not, the Plaintiff not to take it down to Trial again without new Notice to be given, as is before expressed, unless by Consent or Rule of Court.

But in *London* or *Middlesex*, if Notice be given of a Trial for one Sitting, and the Plaintiff be not provided to proceed: If he give Notice before that Sitting that he will try it the next Sitting, that to be held convenient Notice.

That in Case of such Warning, and no Proceeding, the Defendant upon Motion to have his Cost of his former Attendance, to be taxed by the Prothonotary; unless the Plaintiff give the Defendant Warning in convenient Time, that he would not proceed; or shew Cause to be allowed by the Court in Excuse of such Costs.

the Court of Common Pleas.

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That no Record of *Nisi prius* be signed before the Issue be entred upon the Roll.

How Issue must be entred.

That, if the Plaintiff give Notice for a Trial, and proceed not, the Defendant may take it by *Proviso* according to Law, giving Notice eight or fourteen Days, as the Case requireth, as aforesaid.

Trial by Proviso.

That in *London* or *Middlesex*, if no Warning for a Trial, then the Defendant not to take it by *Proviso*, to try it the same Term; but afterwards he may take it by *Proviso* according to Law, giving eight or fourteen Days Notice, as the Case requires.

In London and Middlesex.

That, if Notice be given to the Attorney of the adverse Party of a Trial upon an Issue joined, it be taken to be good Notice: And Oath made of Want of Notice to the Attorney, to turn the Proof of Notice given to the Party upon him that brought it down to Trial in that Case.

Of Notice to be given.

That, if an Issue be joined above a Year since in any Case, then one Term's Notice to be given of the Trial.

Where one Term's Notice.

Concern-

The Rules and Dibets of

Concerning Trials at Bar.

Allowance af-
ter a privy Ver-
dict delivered.

THAT for the Remedy of excessive Charges of Trials at the Bar, especially whilst the Jury lieth out, it is ordered, that a Jury lying out one Night after a privy Verdict delivered, there be allowed for the whole Diet of each Jury-man that Night no more than three Shillings four Pence a-piece, and for two Criers to each of them no more than two Shillings ordinary, besides the Charge of the Jurors Lodging.

Fees after Ver-
dict in Court.

That after a Verdict delivered in Court, the Jury and Officers to be paid their Charges and their Fees in the Inner Treasury, without going to the Taverns or Victualling-Houses for that Cause.

Concerning special Verdicts at the Bar; or by Nisi prius.

Counsel to
subscribe the
Points in Que-
stion, &c.

THAT in finding special Verdicts where the Points are single and not complicated, and no special Conclusion, the Counsel (if required) do subscribe the Points in Question, and agree to amend Omissions or Mistakes in the *mesne Conveyance*, according to the Truth, to bring the Point in Question to Judgment.

the Court of Common Pleas.

33

That unnecessary finding of Deeds in ^{Deeds to be found according to the Substance, &c.} *hac verba*, where the Question rests not upon them, but are only Derivation of Title to be spared; and found shortly according to the Substance they bear in Reference to the Deed, as Feoffment, Lease, Grant, &c.

Concerning new Trials.

THAT where a Verdict finds entire Damages where Damages are the Principal, and Part not actionable, though Judgment be arrested yet by Rule of Court a *venire fac de novo* may issue as upon an ill Verdict, and upon the new Trial the Party may sever his Damages.

When a new Trial may be had.

Concerning Judgments.

THAT in a Judgment by *non sum informatus*, or *nil dicit*, in *Eject^t firme*; the *Capiatur* be entered upon the first Judgment.

That upon a Cause removed by *Habeas Corpus* out of an inferior Court, having Jurisdiction of the Cause, if Judgment be given for the Plaintiff, the Costs below to be consider'd and cast into the Judgment; if for the Defendant, the Charge of putting in Bail.

Capiatur;
where:

When upon Causes re- moved.

D That

The Rules and Duties of

Principal not
to give War-
rant against his
Surety.

That the Principal in any Bond or Bill obligatory do not for the Time to come give Warrant to appear for, or confess Judgment against his Surety ; and that after the two and twentieth of January next, no Judgment be confessed for, or given against the Surety upon any such Warrant given by the Principal.

Days allowed
to sign Judg-
ments.

That sixteen Days be allowed for the signing of Judgments after every Term, except Easter Term, upon Causes depending in the Term precedent.

These Rules to
be duly obser-
ved.

And lastly, it is declared by the Justices of this Court, that as the Court doth expect that all the Rules and Orders before mentioned be duly observed ; so it is further ordered, that all other former Orders and Rules yet in force, not hereby altered, suspended, or annulled, be likewise observed and put in Execution according to the true Intent and Meaning of the same.

And all other
former Rules.

Ol. St. John.
Edw. Atkins.
Matthew Hale.
Hugh Windham.

The

The OATH to be taken by every Attorney of the Court of Common Bench at Westminster, before his Admittance, to be administred, openly in Court, by the chief Prothonotary.

YOU shall do no Falshood or Deceit, nor consent to any to be done within this Court: And if you shall know of any to be done, you shall give Knowledge thereof to the Lord Chief Justice, or other his Brethren, Justices of this Place, that it may be reformed. You shall delay no Man for Lucre or Malice. You shall increase no Fees, but you shall be contented with the old Fees accustomed. You shall plead no foreign Pleas, nor sue any foreign Suits unlawfully, to the Hurt of any Man; but such as shall stand with the Order of Law, and your own Conscience. You shall seal all such Process as you sue out of this Court, with the Seal thereof: And see the Fees paid for the same. You shall not willingly nor willingly sue, or procure to be sued any false Suit, nor give Aid or Consent to the same, upon Pain to be expulsed from this Court for ever. And further, You shall truly use and demean your self in the Office of an Attorney within this Court, according to your Learning and Discretion.

To do no Fals-
hood or Deceit.
Nor consent to
it.
And to give
the Justices No-
tice if he know
of any such.
Not to delay
for Lucre or
Malice.
Not to increase
Fees.
To plead no
foreign Pleas.
To sue no fo-
reign Suit, but
&c.
To seal all
Process he sues
out.
And pay the
Fees thereof.
Not raise, &c.
any false Suit
willingly.
Upon Pain of
of Expulsion.
And truly to
demean him-
self, &c.

So help you God:

D 2

De-

The Rules and Orders of

De Termino Hil. 13 & 14 Car. 2 R.

Rules concerning Baills.

H. Cor' to inferior Courts near London how returnable. Defendant must give Notice of Bail, &c.

If Plaintiff is not to be found then, &c.

Procedendo for want of Notice.

THAT Writs of *Habeas Corpus* directed to the inferior Courts of *London, Westminster, Southwark* and other Courts within five Miles of *London* may be returnable immediate. And if the Defendant intendeth to be bailed, then upon or within four Days after Allowance of the Writ, the Day of which Allowance being endorsed by such Officer as allows the same on the Back of the said Writ, Notice is to be given in Writing of the Names and Additions of the Bail, the Time when and the Judge before whom the same is intended to be put in, to the Plaintiff or his Attorney, or him that caused the Plaintiff to be entred; or if none can be found, then Notice of the Premisses to be left in Writing with the chief Clerk of the inferior Court, or his Deputy by the Party that tenders the Bail or his Attorney, and Oath made thereof, otherwise the Bail not to be taken, and a *Procedendo* granted if desired before Bail accepted. That if no Bail in such Cases be put in within eight Days after the *Habeas Corpus* allowed in those Courts,

Courts, when it is returnable immediate a *procedendo* may be granted by any Judge of this Court, if desired before Bail taken. And if Bail be taken in the Absence of the Plaintiff or his Attorney, the same is to be taken *de bene esse*. And if no Exception be taken, within twenty Days after the Bail taken, Notice having been given as aforesaid, then the Bail to be delivered out to be filed. That if Bail upon a *Habeas Corpus* be taken before a Judge at his Chamber and not disassented unto, if not filed within four Days after the twenty Days, a *procedendo* may be granted upon Certificate that it is not filed. That in Term-time the Plaintiff in the inferior Court may speed the Defendant to put in and to file his Bail by Rules given in the Bill of Pleas. And if not filed according to the Rules upon Certificate thereof, a *procedendo* to be granted. That all Writs of *Habeas Corpus* returnable in Court be returnable at a Day certain. That upon Bail take of Persons in Custody the Judge's Clerk to deliver the Bail to the Prothonotary to be filed if assented unto. And to that End the Prothonotary's Fees to be deposited, but the Prisoner not to be discharged until the Bail be assented unto, or over-ruled in open Court.

Bail taken *de
bene esse*.

Days given for
Exception.

A *Procedendo*
upon a Certifi-
cate.

Rules given to
put in or file
Bail.

No' Cn' how
returnable.

Bail taken to
be filed.

No Discharge
till Bail assen-
ted to.

Orl. Bridgman.
Rob. Hyde.
Tho. Tyrrell.
Sam. Browne.

D. 3. H. Hill.

The Rules and Orders of

Concerning Writs &c to be issued by the Sheriff or his Deputy to execute the same in the County of Lancashire and the Cities of Lancaster and Preston.

Hill. 14 & 15 Car. 2. R.

Concerning Sheriffs making Deputies and returning of Writs.

Sheriffs Deputies on Record.

Penalty.

To attend daily in Term-time.

To make out no Warrant till a Writ be delivered.

Not to deliver out any blank Warrants.

IT is ordered, that every Sheriff shall make and cause to be entered on Record a sufficient Deputy, to receive all manner of Writs and Process under the Pains and Penalties mentioned in the Statute in that Behalf made in the 23d Year of the late King Henry the Sixth, which Law shall be henceforth duly put in Execution. And it is further ordered, that the said Sheriffs, or their sufficient Deputies, shall give their personal Attendance in Westminster-Hall daily in the Term-time, that so they may with the more Convenience dispatch those Services, which appertain to their Offices respectively. And that no Sheriff, or Sheriff's Deputy, shall deliver or make, or cause or suffer to be delivered or made, any Warrant or Warrants before the Writ or Writs be duly sued forth and delivered to the said Sheriffs or their Deputies respectively. Neither shall the said Sheriffs nor their Deputies deliver or cause or suffer to be delivered, any Blank Warrants. Nor shall any Clerk or Attorney of this Court receive or procure to be made any such blank Warrants, upon Pain of severe Punishment, and Fine to be imposed upon the

the said Sheriff and their Deputies, and utter Expulsion of the said Clerks or Attorneys respectively offending in the Premises.

Orl. Bridgeman,

Rob. Hyde,

The. Tyrrell,

Sam. Browne.

Hills 14, & 15, Car. 2. R.

Concerning Attorneys suffering others to practise in their Names.

Whereas every Attorney of this Court, as well by his Oath and the Duty of his Place, as under divers Penalties by several Acts of Parliament, and former Orders of this Court being retained to be Attorney for any Person or Persons Defendant or Plaintiff, Tenant or Defendant, in any Action or Suit in this Court is bound to deliver or cause to be delivered his Warrant of Attorney to the Office or his Deputy, ordained for the Receipt and Entry thereof in this Court. And whereas by the Statute made in the third Year of the Reign of our late Sovereign Lord King James, it is enacted, that no Attorney shall permit any other to follow any Suit in his Name.

Recital of former Orders for Attorneys to deliver their Warrants.

And not to permit others to practise in their Name.

The Rules and Orders of

To appear in Person in Court.

Upon Penalties, &c.

Thro' Neglect many Inconveniences, &c. have happen'd.

Name. And that every Attorney so doing, shall be excluded from being an Attorney for ever thereafter. And whereas by Order of this Court every Attorney of this Court ought to appear in Person upon or before the fourteenth Day of *Michaelmas* Term, and upon or before the seventh Day of every other Term, upon Pain of ten Shillings for the first Default, twenty Shillings for the second Default, and putting out of the Roll for the third Default, and that the Appearances should be entred with the Clerk of the Warrants, and that the Name of the Defaulters should be delivered to the Court by the Clerk of the Warrants or his Deputy, within three Days after the Time required for Appearance. Notwithstanding all which Laws and Orders through the disorderly Practice and Negligence of divers Attorneys of this Court, especially of the younger sort, for want of their Attendance upon their Office of Attorney here in Court, and permitting others to practice in their Names, and neglect to deliver their Warrants of Attorney to be filed, and entred of Record, very many great Inconveniences, Troubles and Errors have been found and arisen of late Time more than formerly, to the Scandal of the Court, and of the honest Attorneys practising therein, and the great Prejudice and Loss of many of his Majesty's good Subjects, as well Plaintiffs as Defendants, Demandants and Tenants, in their Suits depending in this Court.

For

the Court of Common Pleas:

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For Remedy of which Mischiefs and Inconveniences, and for avoiding of Errors for the Time to come, It is forbidden by the Justices of this Court, upon Pain of Expulsion from this Court, that no Attorney of this Court permit any other to practise in his Name. And it is further declared and ordered by this Court, that every Attorney of this Court do from henceforth appear in Person, within the Times in every Term before limited and expressed under the Penalties before-mentioned for their Defaults. And that every Attorney of this Court do file his Warrant of Attorney of the Term, wherein any Exigent is awarded, Demurrer or Issue joined, or Judgment entred, or which of them shall first happen, upon Pain of forty Shillings for every Time he offendeth, and be attainted by due Examination made by the Justices of this Court, such Warrant to be filed upon or before the Essoin-Day of every *Trinity-Term*, and within the Space of one and twenty Days next after the End of every other Term. And that no Officer of this Court do make or suffer to be made any Proces or Entry, in the Name of any Person not sworn an Attorney, nor entred in the Roll of Attorneys, or in the Name of any Person put out of the Roll of Attorney, either as a Discontinuer, or for any Misdemeanor, or by Rule of Court, after Notice thereof given to such Officer by the Clerk of the Warrants of this Court for the Time being, or his Deputy; and for the better effecting the due Observance of this present Order, It is lastly ordered,

No Attorney
to permit any
other to prac-
tise in his
Name.

His Appearance
in Term-time,
&c.

Warrants of
Attorney to be
filed, and when.

Proces not to
be suffered by
Officers.

After Notice
given thereof.

that

The Rules and Orders of

Presentment of
the Names of
Offenders.

that the Clerk of the Warrants of this Court for the Time being, or his Deputy, or the Persons appointed yearly by the Court to give Information to the Court from Time to Time of Breaches of Orders and Misdemeanors of Officers, Clerks and Attorneys in every Michaelmas-Term, or other, if required, shall and may present to the Court from Time to Time, the Name and Names of every Attorney or Attorneys offending against this Order, To the Intent that the Court may examine every Attorney complained against concerning any of the Matters before rehearsed, and upon attainting any such Attorney, upon due Examination had, may inflict such Punishment by Fine, Imprisonment or Expulsion, as the Case shall require, or give Directions for Informations to be exhibited against the most frequent and notorious Offenders for the greater Penalties mentioned in the Statute thereof made and provided.

That such offending Attorney may be examined, punished, &c.

Orl. Bridgeman
Rob. Hyde.
Tho. Tyrrell.
Sam. Browne.

Hil.

the Court of Common Pleas.

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Hil. Anns 14 & 15 Car. Second Regis.

Whereas many Persons arrested upon mean Process issuing out of this Court, and upon Plaunts levied in inferior Courts, and removed to the Fleet by Habeas Corpus with those Causes returned upon them, have been detained thereupon for a long Time, as well in the Custody of Sheriffs and Gaolers, as in the Prison of the Fleet, without any Prosecution or Proceedings against them in this Court. Now forasmuch as every Person, having Cause of Action against any Prisoner in the Fleet, may have speedy Proceedings against such Prisoner. Therefore, and also to prevent unjust Vexations by long detaining of Persons in Prison there for the future, It is ordered by the Justices of the Court of Common Bench this present Term of St. Hillary, that if any Person be committed to the Fleet by Habeas Corpus in this present Term, or in any other Hillary-Term, or in the Vacation following this Term, or any other Hillary-Term, unless the Plaintiff or Plaintiff, at whose Suit the Prisoner stands charged at the Fleet, shall bring such Prisoner to the Bar of this Court by Habeas Corpus, and declare against him within six Days after Trinity-Term begun, such Prisoner may be discharged by Supersedeas to be issued of Course

Concerning
Persons detain-
ed long in the
Fleet without
any Proceed-
ings

Ordered, that
upon a Com-
mitment in
Hillary-Term,
or the Vacation
following,

Prisoner to be
brought to the
Bar, &c.

The Rules and Orders of

When the Prisoner may be discharged by Supersedeas.

Course out of the Prothonotary's Office of this Court, where the Commitment of the said Prisoner with his Causes is entered, so as such Prisoner first enter his Appearance by Attorney with the said Prothonotary in Case of an Attachment of Privilege, or of a Plaintiff, or with the Filazer upon other Process returnable in this Court: And do bring a Certificate under the Hand of the Warden or Clerk of the Fleet, that no Proceedings by *Habeas Corpus* have been had against him within the Time aforesaid. And that if any Person be committed to the Fleet in any Easter-Term, or in the Vacation following any Easter-Term, unless the Plaintiff or Plaintiffs bring such Prisoner to the Bar of this Court by *Habeas Corpus*, and declare against him within six Days after Michaelmas-Term begun, such Prisoner shall be discharged in Manner aforesaid.

How upon a Commitment in Easter-Term or Vacation.

How in Trinity-Term, or Vacation.

How in Michaelmas-Term, &c.

said. And the Plaintiff or Plaintiffs may declare upon such Appearance entred the next Term after such Appearance or *Supersedeas* granted. And the Attorney appearing for such Prisoner shall be bound to take a Declaration, and not afterwards. And as concerning Persons arrested, and remaining in the Custody of any Sheriff or Gaoler, upon any mean Process issuing out of this Court, It is further ordered, that if the Plaintiff or Plaintiffs, at whose Suit such Person is arrested and in Custody, do not remove such Prisoner by *Habeas Corpus* to the Fleet, and the Prisoner enter Appearance in Manner aforesaid, Such Prisoner may be discharged by *Supersedeas* in the End of the third Term after the Arrest, according to the Course antiently used. And the Plaintiff may declare upon such Appearance the Term following, but not after; but if such Prisoner cause Appearance to be entred for him by Attorney, and cause Notice thereof to be given to the Plaintiff, or his Attorney; and if Oath thereof be made in Writing, and filed in Court, unless the Plaintiff or Plaintiffs declare against such Prisoner in the Term next after such Appearance, the Prisoner may be discharged by *Supersedeas*. So as Oath be made by the Attorney for the Defendant, that no Declaration hath been delivered or tendred to him. And the Plaintiff or Plaintiffs may declare against the Defendant the Term next after such Appearance entred. But not afterwards.

And

When the Plaintiff may declare upon such Appearance. *Supersedeas* granted, &c.

How a Prisoner not removed by *Ha' Cor'* to the Fleet may be discharged.

How the Plaintiff may declare upon Appearance, &c.

Or else the Prisoner may be discharged by *Supersedeas*.

The Rules and Orders of

Where a Prisoner in the Fleet names an Attorney in the Court to appear, how such Defendant must plead.

Where he shall have an Imparience till next Term.

When he must plead within eight Days, &c.

What Notice of Trial must be given to such Prisoner.

And for the Certainty of the Practice in Proceedings to be had against Prisoners in the Fleet, by Virtue of the late Act of Parliament, It is further declared and ordered by this Court, that in Case any such Prisoner shall hereafter be brought to the Bar of this Court, by a Writ of *Habeas Corpus* returnable at any Day certain being before the Day of Appearance of the third Return of any Term. And the said Prisoner name an Attorney who shall appear for him at the Suit of the Plaintiff in the Action in the said Writ specified. The said Defendant be compellable to plead by the last Day of the said Term, to a Declaration to be delivered to the said Attorney, if the Plaintiff give a Rule for him so to do. But where any Prisoner is brought to the Bar, by such Writ returnable after the Day of Appearance of such third Return of any Term, the Defendant of Course to have Imparience until the next Term following. But if such Prisoner refuse to nominate an Attorney to appear for him, then such Prisoner is to plead within eight Days, according to the said Act, provided that there be eight Days after the Return of the *Habeas Corpus* to give a Rule to be out within the Term. And lastly, it is ordered, that after Issue joined, ten Days Notice at the least exclusive of the Day of such Notice be given to the Defendant (being actually in the Prison of the Fleet) of the

the Court of Common Pleas.

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the Time of Trial of such Issue to be
had.

Orl. Bridgman.

Rob. Hyde.

Tho. Tyrrell.

**Hil. Annis 15 & 16 Car. Secundi
Regis.**

Whereas the King's Majesty's Justices of this Court have received Information, That very many Under-Sheriffs of this Kingdom and the Dominion of *Wales*, notwithstanding several Acts of Parliament, and divers Orders of this Court to admonish them of the Duties of their Places, in Conformity thereunto, have neglected to have their Deputies upon Record, and to attend the Court in Term-time to receive Writs and Process issuing out of and returnable in this Court, and to make and deliver due Returns of the same. And also have neglected the Execution of many such Writs and Process to them delivered, or having made Execution of the same Process by Arrest, or otherwise, have let Persons go at large, without taking Security or due Order for their Appearance. And having taken the Bodies, or seized the Lands or Goods of Persons outlawed upon Writs of *Capias Ut-lagat*,

Concerning
Sheriffs Depu-
ties upon Re-
cord.

And Neglect of
Execution of
Writs, &c.

And letting
Persons go
without Secu-
rity.

The Rules and Orders of

And discharging Persons taken upon Outlawry.

To the manifest Delay of Justice, &c.

Therefore ordered,

That Sheriff's make a Deputy on Record.

That Under-Sheriffs, &c. duly attend the Court.

lagat, issuing out of this Court, have discharged such Persons and their Lands and Goods without Writs of *Supersedeas* for the same, or making any Return to the Court contrary to their Oaths and Duties of their Places, and expressly against the Statute thereof lately made and provided to the manifest Delay of Justice, the Diminution of his Majesty's Revenue, the Loss of many Mens just Debts, and the Encouragement of Persons to stand in Contempt of the Laws of this Realm. All which Inconveniencies and Mischiefs his Majesty's Justices being resolved to Use their utmost Endeavour and Power to reform, by examining and severely punishing all Sheriffs, and Under-Sheriffs, and their Clerks, Deputies and Bailiffs whom they shall find hereafter faulty in the Premisses. It is therefore ordered and declared by the said Justices of this Court, that every of the said Sheriffs before the last Day of this present Term; and afterwards before the last Return of the next Term, after the taking of his Oath of Sheriff, shall make a Deputy on Record in this Court, according to the Statute made in the three and twentieth Year of the Reign of King *Henry the Sixth* in that Behalf. And that all Under-Sheriffs, or their Deputies, duly attend the Court in Term-time, and that they duly execute and return the Writs and Process of this Court, and take sufficient Security, or certain Order for Appearance of all Persons by them arrested according Law.

And

And that no Sheriff, Under-Sheriff, Sheriff's Clerk, Deputy or Bailiff, nor any Steward, Bailiff of Franchise, Coroner, or their Clerk or Deputies shall set at Liberty any Person taken upon any Writ of *Capias Utlagat* nor discharge the Lands or Goods of any Person Outlawed by them seized upon any Writs of *Capias Utlagat* without a lawful Writ of *Supersedeas* under the Seal of this Court to them delivered for such Discharge, according to the late Act of Parliament in the thirteenth Year of his now Majesty's Reign in that Behalf made and provided. And it is further ordered, that no such *Supersedeas* be made or issued out of this Court by any Officer, Clerk, Attorney or Minister of the same, without sufficient Bail first taken according to Law and former Orders and Usages of this Court, upon Pain of incurring the severest Punishment, which, according to Law and Justice can be inflicted upon the Offenders in any of the Premisses.

Not to dis-
charge any
Person, &c.
taken upon
Outlawry with-
out *Supersedeas*.

No such Super-
cedeas without
sufficient Bail.

Orl. Bridgman.
Tho. Tyrrell.
Sam. Browne.
Jo. Archer.

E. Mich.

Mich. xvii Car. 2.

No *Supersedeas*
after the Re-
turn of an Ex-
gent.

To be allowed
as an Appear-
ance until Costs
secured.

Defendant
shall give spe-
cial Bail upon
a Reversal if,
&c.

And to pay
full Costs.

FOR the better Execution of the Process of Outlawry to be made and issued by and out of this Court, and the Prevention of divers Abuses by a Neglect of the same, It is ordered that upon every Writ of Exigent which shall be sued forth of this Court, from and after this Term, if a *Supersedeas* be not put in thereunto at or before the Return thereof. That no *Supersedeas* shall by any Sheriff or other Officer, be allowed as an Appearance to any such Writ of Exigent until the Defendant shall have paid unto the Plaintiff or his Attorney, or left in the Court with one of the Prothonotaries thereof, the full and just Costs of Suit, as he shall have been at in the suing forth of such Writ of Exigent to be taxed by the said Prothonotary. And that upon reversing of all and every Outlawry the Party Defendant, which reverseth the same, shall before the Reversal thereof or any *Supersedeas* made therunto, give special Bail, if the Sum of Money or Damages expressed in the Original Writ, whereupon the Exigent was awarded, shall amount to the Sum of twenty Pounds, and the Plaintiff or Plaintiffs shall require the same, and pay to the Plaintiff or Plaintiffs or his or their Attorney, or leave in the Court for him or

or them, his or their full and just Costs of Suit expended in the Prosecution of the same, to be taxed as aforesaid. And for the Prevention of the great and common Abuse committed by the Sheriffs and Bailiffs for enlarging of Persons arrested upon *Capias Ut-lagat* before Judgment, without a *Supersedeas* first had, It is farther ordered, that if any Sheriff or Officer whatsoever shall set at Liberty any Person arrested upon a *Capias Ut-lagat*, before Judgment without a lawful *Supersedeas* in that Behalf first delivered unto him or them; That upon Affidavit thereof made and filed, every Person offending therein shall pay the Sum of forty Shillings to the Party grieved, or complaining, who shall have an Attachment of course against such Sheriff, Officer or Party offending, for the Payment of the same, and the Party or Parties so offending shall likewise undergo such other Punishments as by this Court shall be thought fit.

Further Remedy against such Sheriff upon a Discharge without a *Supersedeas*.

Penalty 40*s.*

And an Attachment of Course for Payment.

Ovl. Bridgman.
Tho. Tyrrel.
Sam. Browne.
Jo. Archer.

Trin. xxi Car. 2.

Concerning an Attorney's making due Entries in that Office, wherein he was first sworn.

WHereas by the ancient Course and Usage of this Court, every Attorney thereof ought to remain and continue, and make his Entries in that Prothonotary's Office only, wherein such Attorney by his own Election was first sworn and settled, and not to remove or withdraw himself or any of his Business from that Office, to any other of the Prothonotary's Offices, without the Licence of this Court, upon just Cause first shewed and allowed by the Court: And whereas several good Orders have been made by this Court for the Continuance and Observance of the said ancient Course: Nevertheless of late time several Attorneys of this Court have withdrawn themselves and their Business from the respective Offices wherein they made their first Election, to enter their Causes, whereby great Mischiefs have happen'd to divers of his Majesty's good Subjects, and great Disorders and Confusion have been occasioned in this Court. For Remedy whereof, and for settling good Order in this Court for the future: And to the Intent the said ancient Course may be duly observed hereafter: It is ordered by the Justices of this Court this present *Trinity Term*, that every Attorney of this Court, who at or upon

Ordered, that such as had formerly withdrawn should reduce themselves, and continue in their first Office.

on the first Day of *Easter Term*, in the twentieth Year of his now Majesty's Reign, or at any Time since, hath withdrawn himself or any of his Causes from that Prothonotary's Office, where he was then settled, unto any other Office, do upon Notice of this present Order reduce himself unto that Prothonotary's Office where he was then settled, and there continue and henceforward cause all his Business and Causes to be entred and made in the said Prothonotary's Office only, and in no other Office, upon Pain of incurring the Displeasure of this Court, and such Penalties as this Court shall think fit to inflict for the first Offence, and for the second Offence to be expelled from this Court. And it is farther ordered, that no Attorney of this Court admitted since the first Day of the said *Easter Term*, nor any other Attorney hereafter to be admitted without the Licence of this Court, upon just Cause shewed and allowed by the Court, first had, shall shift from the Prothonotary's Office where he hath or shall make his own Election, and be sworn and settled, as aforesaid, upon like Penalties aforesaid. And it is farther ordered, that no Prothonotary of this Court shall hereafter permit or suffer any such removing or shifting Attorney to enter any of his Causes in his Office contrary to this present Order.

Upon Penalty
&c.

That no Attorney hereafter shall without Licence shir from the Of-
fice he elected,
&c.

That no Pro-
thonotary suf-
fer such shift-
ing Attorney to
enter any of
his Causes in
his Office.

Jo. Vaughn.
Tho. Tyrrell.
Jo. Archer.
W. Wynde.

Trin. xxi Car. 2.

Concerning
Imparlances or
Incipiturs to
be entred on
Record.

Inconvenien-
cies contrary to
ancient Prac-
tice.

That Impar-
lances or *Incipi-*
turs in all
Causes, &c. be
entred.

W^Hereas, upon Complaint daily made unto this Court, it doth plainly appear that many Disorders are of late crept into this Court, by reason that the Clerks and Attornies of this Court do neglect according to their Duty, and the ancient Usage and Custom of this Court, to enter upon Record Imparlances or *Incipiturs*, in all such Causes wherein Imparlances or *Incipiturs* ought to be entred. And by reason thereof many Judgments are entred and Issues are join'd before there is any Foundation in Law, or preceding Record to Warrant the same. And thereby Defendants are compelled to plead to an erroneous Copy, not warranted by any Record to the manifest and apparent Damage of his Majesty's Subjects, and contrary to the ancient Orders and Proceedings of this Court. For the Prevention whereof, to the Intent the said ancient Course may be duly observed hereafter, It is ordered by the Justices of this Court this present *Trinity* Term, that all Attornies and Clerks of this Court do henceforth duly enter or cause to be entred, Imparlances or *Incipi'* in all Causes according to the ancient Usage of this Court, and that the want of entring an Imparlane or *Incipitur* in every Cause, wherein Imparlances

lances ought to be entred, be a sufficient Cause for the Defendant to have a farther Imparience of Course. And that no Attorney, Clerk, or any Minister of this Court, shall hereafter give any common Rule to plead in any Cause wherein Imparances or *Incipiturs* ought to be, and are not entred upon Record in any of the Prothonotary's Remembrances until the respective Prothonotary, in whose Office the Cause is, shall give Allowance for the giving of such Rule to plead. And that the Rule of this Court made this present Term, for the Prevention of all Debates and Controversies that may hereafter happen to arise between the respective Prothonotaries of this Court, concerning Attornies that have or shall hereafter remove themselves and their Businels from one Prothonotary's Office to another, may be effectual to all Intents and Purposes, It is farther ordered by this Court this present *Trinity* Term, by and with the Consent of the respective Prothonotaries of the same Court, that the said respective Prothonotaries shall permit and suffer each other respectively by themselves or their respective Clerks to search each other's Doggets, and Judgment Books at seasonable and convenient Times, for the better Discovery and Prevention of such Abuses in the future. And that if it shall hereafter happen that any Matter or Businell be henceforward entred in any Prothonotary's Office, contrary to the said Order, that then such Prothonotary shall upon Notice and Request made to him, repay the Fees received for

Else a farther
Imparience of
Course.

No Common
Rule to plead,
if no such En-
try, until, &c.

Further Order-
ed to prevent
Attornies shift-
ing Offices.

Doggers and
Judgment
Books to be
searched by the
Prothonotaries.

And to pay
each other the
due Fees, &c.

The Rules and Orders of

To be entred
before filed,
C^r.

doing of such Busines to such Prothonotary
to whom such Fees did of Right belong.
And that no Bill shall be filed against any
Officer, Attorney, Clerk or Minister of this
Court to be called in Court, in order to a
Fore-judger, until the said Bill be actually
entred upon Record, and a Number-Roll put
upon the said Bill.

Jo. Vaughan.
Tho. Tyrrell.
Jo. Archer.
W. Wyarde.

Paschæ xxiv Car. 2.

An Order concerning the Supersedeas-Office.

To prevent
Abuses.

Ordered.

If **F**orasmuch as by the Information of
Richard Abbot, Gentleman, Officer
of the Office aforesaid, the Court is given
to understand and be informed, that divers
Abuses are frequently committed contrary to
the ancient Use and Custom of this Courr,
in Deceipt of the King's Majesty of his
Seals, and defrauding and deceiving divers
Officers thereof: It is ordered by the
Court for Preyention of such like Frauds,
Deceits

the Court of Common Pleas.

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Deceits and evil Carriages for the Future, that no Under-Sheriff, or County-Clerk, of any County within this Realm, nor any Attorney, or other Minister of this Court, shall return or cause to be returned upon any Writ of *Exigi Facias* issuing out of, or returnable in this Court, any false Return of *Reddidit se*, where in Truth the Defendant hath not rendred himself to the Sheriff: And that no Clerk, Attorney, or other Minister of this Court shall enter, or cause to be entred, any *Retraxit* with any Under-Sheriff, County - Clerk, or other Minister aforesaid whatsoever, upon any Writ or Writs of *Exigi Facias*, issuing out of, and returnable in this Court, until the same *Retraxit* be entred upon the same Roll, upon which the said Exigent is awarded of that present Term in which the same is returnable. And that no farther Proceeding be in that Cause, after the Party outlawed, by Filing a new Original, or by any other Means, or Ways whatsoever, to deceive the King's Majesty of his Seals, and the aforesaid Officer of the *Supersedeas* Office of his just Fees, for making and signing of the Writs of *Supersedeas quia imprevide*, to such Writs of Exigent, or any other Officers of their just Fees. And that no Under-Sheriff, or County-Clerk aforesaid, or other Minister of the same Court whatsoever, from and after the End of this present Term, shall receive any Writ of *Supersedeas*, or allow

That no Under-Sheriff, &c. shall return a *Reddidit se*.

Where the Defendant hath not rendred himself.

No *Retraxit* with the Under-Sheriff.

Until it be entred on the Roll.

No Proceedings, &c. to prevent Fees of a *Supersedeas quia imprevide*, &c.

Supersedeas to be duly signed and sealed.

The Rules and Orders of

Where none
shall give or
receive any Co-
pies of Decla-
rations founded
upon an Exi-
gent.

low any such Writ upon his or their Book
or Books, File or Files, until the same be
duly signed by the proper Officer of the
said Office, and also sealed. And lastly,
It is ordered that no Attorney, or other Mi-
nister of this Court, either for Plaintiff or
Defendant, shall give or receive any Copy,
or Copies, of Declarations founded upon a
ny Writ of *Exigi facias*, until the King's
Majesty's Writ of *Supersedeas* be duly sign-
ed and sealed, and allowed with the
Sheriff, Under-Sheriff, or his lawful De-
puty, of the County where the Exigent
is laid.

*Jo. Vaughan.
Jo. Archer.
W. Wyld.
Rob. Atkins.*

Paschæ xxiv Car. 2.

Concerning en-
tering Appear-
ances for De-
fendants, &c.

WHereas several irregular Attorneys,
retained to appear for Defendants,
have, contrary to the Law and Usage of this
Court, neglected to enter Appearances for
such Defendants, to the Delay of Plaintiffs,
Damage

Damage of Defendants, Abuse of this Court, and to the Defrauding the King's Majesty of the Duty of Six-pence, for every Appearance given by a late Act of Parliament, entituled, *An Act for laying Impositions upon Proceedings in Law: For Remedy whereof*, it is ordered by the Justices of this Court in this present Easter-Term, That every Attorney retained to appear for any Defendant to any Writ issuing out of this Court, which are made by the respective Filacers of this Court, shall from henceforth according to the Course of this Court, enter the Appearances of all Defendants with the proper Filacer of this Court, of the City or County from whom such Process respectively did issue where the Action is laid, and pay the said Duty of Six-pence unto his Majesty to the said Filacer, together with the said Filacer's Fee upon the Penalties in the said Act of Parliament mentioned. And it is farther ordered, that no Defendant shall be permitted to imparle, amend his Plea, or move to change the Venue in any Action until his Appearance be entered as aforesaid. And that no Attorney of this Court shall receive any Declaration, unless an Appearance be first entered with the Filacer, as aforesaid, under the like Penalty. And that no Attorney shall deliver, or cause to be deliver'd, any Declaration or Count to the Defendant's or Tenant's Attorney, or to any Person for him until the Appearance (to warrant such Delivery) be duly entered with the proper Filacer, under the Penalty to be expelled the Court. And it is farther ordered for the better

Ordered,
That Attorneys
shall enter the
Appearances
for the De-
fendants with the
proper Filacers,
&c.

No Imparle-
ment or
Change of
Venue to be al-
lowed.

Nor Declara-
tion to be re-
ceived or deli-
vered till Ap-
pearance en-
tered.

Penalty.

The Rules and Orders of

**The Filacers
may peruse the
Prothonotaries
Doggets.**

better discovering and punishing of Offenders against this Order, That the respective Filacers of this Court may at all convenient Times freely peruse the Doggets and other Memorials of the Prothonotaries respectively of this Court, to the End that in every Term they may deliver in Writing the Names of all Attornies of this Court, who shall not have entred the Appearances of such Defendants who employ them with the proper Filacer of this Court, to the Lord Chief Justice of this Court, or his Brethren, (which they are hereby required diligently to do,) to the End the said Justices may, without Remissness, proceed against such as shall be found Offenders against this Order.

*Jo. Vaughan.
Jo. Archer.
W. Wynde.
Rob. Atkyns.*

Paschæ

Paschæ xxvii Car. 2.

*An Order concerning the Delivering of Copies of special Verdicts and Demur-
fers unto the Justices of this Court,
in all Causes entred into the Court-
Books for Argument at the Bar.*

IT is ordered by the Court, That every Attorney of this Court towards any such Cause, shall deliver true Copies of the Record thereof to the respective Justices of this Court, by the Space of one whole Week at the least next before the Day appointed for such Argument. Namely, The Attorney for the Plaintiff one Copy thereof to the Lord Chief Justice, and another to the Senior Judge. And the Attorney for the Defendant, like Copies to each of the other two Justices of this Court for the Time being, according to the antient Course here used, under such Penalty as the Court shall think fit to inflict upon the Attorney neglecting his Duty therein. And it is farther ordered by the Court, That no Argument by Counsel on either Side shall be heard at the Bar until Books be delivered to all the Judges. Provided nevertheless, That in case the Attorney of either Party shall not deliver Books as he ought, then

Copies to be delivered to the Justices.

Two by the Plaintiff's,

And two by the Defendant's Attorney.

Under Penalty, &c.

No Argument to be heard till the Books be delivered.

if

The Rules and Orders of

if the Attorney on the other Side for expediting his Client's Cause will deliver Books to all the Judges, three Days at the least before the Argument, Counsel shall be heard on his Client's Behalf at the Day appointed. And the Attorney delivering Books, as aforesaid, shall be imburſed the Charges of delivering the two Books, which ought to have been delivered by the Attorney of the adverse Party, which Charges the said Attorney shall be bound to pay upon Demand thereof. And

If not paid for before Judgment, then to be allowed upon taxing Costs.

lastly, it is ordered, That if the Charges of Delivering the said two Books shall not be paid before Judgment shall be given in the Cause, the Charges of Delivering the said Books shall be allowed upon taxing Costs. And in that Case the Attorney shall not be compelled to pay the said Costs.

If no Costs to be paid, then he shall be compelled by an Attachment, &c.

But if no Costs are to be taxed in the Case, then the Attorney making Default in Delivering of Books, as aforesaid, shall be compelled to pay the Charges of the Copies so delivered by the Attorney of the adverse Party, by Attachment, or otherwise, as the Court shall think fit,

by the Court.

*Fra. North.
Hugh Wyndham.
Rob. Arkyns.
Wm. Ellys.*

Trit.

Trin. xxviii Car. 2.

A Rule concerning Allowances of Writs of Error, and Nonsuits upon them.

Forasmuch as Information is given to the Lord Chief Justice of the Court of Common Pleas, that several Attornies of the said Court, do make out Execution upon Judgments, whereupon Writs of Error are brought, without giving Rules, or signing *Non-pros* with the Clerk of the Errors (to whom the same particularly belongs,) and do sue out Writs of Error, and shew the same to the Plaintiff's Attorney in the Action, without bringing them to the Clerk of the Errors, or putting in of Bail before the Lord Chief Justice of the said Court, according to the several Statutes in that Case made. For preventing of which irregular Practices, it is ordered by the Lord Chief Justice of the said Court, that for the Future no Attorney of the said Court, do or shall make out any Executions, *Non obstante Brevi de Errore*, until they have had a Certificate from the Clerk of the Errors, that the Record is not removed, and a *Non-pros* thereupon duly signed, and that all Attornies, do forthwith bring their Writs of Error by them sued out to the Clerk of the Errors, to be allowed according to the antient Practice of the Court,

Ordered,
That no Execution be sued
out *Non obstante
brevi de Errore*
until a Certificate,
&c.

And that all
Writs of Error
sued out be
brought to the
Clerk of the
Errors, *&c.*

The Rules and Orders of
Court; or in Default thereof, the Plaintiff's
Attorney in the Action is, and may be, at
Liberty to proceed to Execution.

Fra. North.

Mich. xxviii Car. 2.

That Writs of
Error be
brought to the
Clerk of the
Errors, &c. or
no Stay of Ex-
ecution.

Special Bail
and a Superso-
deas.

No Execution
without a Cer-
tificate, &c.

Ordinatum est quod omnia brevia de Errore indilatate deliberentur Clerico Errorum pro tempore existent' Quodque nemo tenebitur abstinere a prosecutione executionis pretextu alicujus brevis de Errore priusquam predictum breve deliberatur Clerico Errorum & in casibus ubi speciale Ballium requiritur, Nisi querens super tali brevi de Errore infra quatuor dies post deliberationem inde imponeat Ballium secundum legem, & obtinebit breve de Supersedeas superinde Defendens poterit procedere ad executionem non obstante tali brevi de Errore. Et ulterius ordinat' est quod post breve de Errore debito modo allocari' & Supersedeas superinde obtent' nulla fiet Executio pro non transcribend' Record' in Bancum Regis, sine Certificatione in scriptis per Clericum Errorum, quod querens in tali brevi de Errore fecit defalci' in transcribend' Record' in Bancum Regis juxta Regulam Curiae prius de cursu dand'.

Fra. North. Rob. Atkyns.
Hugh Wyndham. Will. Scroggs.

Hil.

Hill. xxviii & xxix Car. 2.

WHereas several cautionary Rules have been, and are usually made by this Court, and directed to be left with the Officers, viz. the *Custos Brevium*; Clerk of the King's Silver and Chirographer, for the staying of Fines suggested to have been acknowledged by Infants, or Feine Coverts without the Consent of their Husbands, or Persons of *non sane memorie*, or otherwise disabled in Law to acknowledge the same, which Rules being numerous, and the Persons concerned therein being negligent in the renewing and continuing thereof as they ought to do every Term, and in length of Time the Parties disabled, as aforesaid by Marriage or otherwise, having changed their Names. It becomes impossible for the said Officers duly to observe the said Rules incumbent on them for staying such Fines. It is therefore ordered, that all Rules heretofore made for the staying any Fine or Fines upon any such or the like Suggestion or Occasion, as aforesaid, shall be renewed or contintied, and Copies thereof left with the said respective Officers before the End of *Easter Term* next, or otherwise that the same be no way obligatory upon the said Officers or any of them. And that for the future all Persons making

To prevent paying Fines acknowledged by Infants, &c.

Or others disabled in Law to acknowledge the same.

Ordered,
That all former Rules relating thereto be renewed,
&c.

The Rules and Orders of

Future Rules
to be entered
and continued.

Copies to be
left with the
respective Offi-
cers, &c.

Persons con-
cerned to search
the Office
Books.

All *Caveats*:
for stopping
Fines and Re-
coveries to be
renewed every
Term, &c.

any Complaint against such Fines acknow-
ledged by Persons so disabled as aforesaid,
or by any Person in the Name of another,
or by the like Deceit, shall from Term to
Term so long as they expect Benefit or Ob-
servance of such Rule, enter and continue
the same Rule for that Term, or leave Co-
pies thereof with the said respective Offi-
cers that the same may thereby be the
better taken Notice of, or in Default thereof,
the said Officers or any of them shall not
stand farther obliged thereby. And all Per-
sons concerned in the obtaining or Prosecut-
ing such Rules, for the staying such Fines so
levied as aforesaid, their Attorneys or Clerks
are hereby enjoin'd every Term to search and
see the Books and Entry of Fines with the
Clerk of the King's Silver, or other Officers
where Entries are kept for that Purpose. In
as much as it is not possible for the Officers
to take that Care, for the stopping of such
Fines and Recoveries, as by Order of Court
they shall be enjoined to stop, by Reason of
the Multiplicity of old Orders which are ne-
ver recalled, so that they cannot know which
Orders are in Force; It is therefore ordered,
that for the future all manner of *Caveats*,
and Orders for the stopping Fines and Re-
coveries, to be renewed every Term, or else
to lose their Force.

Fra. North.
Hugh Windham.
Rob. Atkins.
Will. Scroggs.

Pasch.

Pasch. xxix Car. 2.

Forasmuch as it hath been represented to this Court by the Clerk of the King's Silver of this Court, that it is not possible for him to take care of the stopping of such Fines, as by order of Court he is enjoined to stop, by reason of the Multitude of old Orders concerning this Matter, which have been granted and never recalled, so that he cannot know which Orders stand in Force, and which are determined. It is therefore ordered, that for the future all manner of *Caveats* and Orders for the Stopping any Fines, shall be renewed every Term, and Copies thereof left with the Clerk of the King's Silver, for which he is to demand only his ancient Fee of 3*s.* and 4*d.* the Term as aforesaid, and in Default thereof, all *Caveats* that shall not be so renewed shall lose their Force and be void.

Concerning
stopping of
Fines.

Ordered, that
all such *Cave-
ats* and Orders
shall be renew-
ed, and Copies
left with the
Clerk of the
King's Silver,
&c.

Fra. North.
Hugh Wyndham.
Rob. Atkins.
Will. Scroggs.

Trin. xxix Car. 2.

For admitting
Officers and
Attornies of
some Inns of
Court or Chan-
cery.

Ordered, that
all Attornies
except, &c.
should be ad-
mitted.

WHereas divers Complaints have been made to this Court of the manifold Inconveniences and Mischiefs that daily happen, for that many of the Officers and Attornies of the said Court, having publick and considerable Employments in the Law, are not admitted of any of the Inns of Court or Chancery, where if they were, they might be better known and more readily resorted to, and the better manage their Affairs, but lodge and keep their Offices in places obscure and remote from the said Inns of Court and Chancery, contrary to the ancient Course and Usage, and to the great Damage of the King's People through Surprizes hapning, and Advantages thence taken and insisted upon, for Prevention of which in time to come, it is ordered by the Justices of this Court, that all Attornies already admitted of this Court, except such as dwell in *London* and *Westminster*, and the Suburbs thereof, or in the Burrough of *Southwark*, and the Liberty of *St. Katharine* near the *Tower of London*,) shall be admitted of some of the Inns of Court or Chancery, before the End of *Michaelmas* Term next coming, and take Chambers there, if conveniently that may be done, else that they take Chambers or Lodgings in some

the Court of Common Pleas.

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some convenient Places near the said Inns, and leave Word with the Butlers of such Inns where their Chambers or Habitations are, upon Pain of being put out of the Roll of Attorneys. And that no Person whatsoever (except as is above excepted,) shall hereafter be sworn an Attorney of this Court, unless he be first admitted of some of the Inns aforesaid, and bring and produce in Court, at the Time of his being sworn, a Certificate under the Hand of the Treasurer or Principal of the said Inn whereof he is admitted, testifying his Admission, which Certificate every Attorney so sworn shall deliver to the Clerk of the Warrants of this Court for the Time being, to be by him filed before such Attorney's Name shall be entred into the Roll of Attorneys of his said Court, remaining with the said Clerk of the Warrants, unto which File of Certificates the Treasurers and Principals aforesaid may from time to time resort as they shall see Cause.

How to be
sworn for the
future; a Cer-
tificate of Ad-
mission to be
produced,

And delivered
to the Clerk of
the Warrants,
&c. to be filed.

*Fra North.
Hugh Wyndham.
Rob. Atkins.
Will. Scroggs.*

F 3

Trin.

Trin. xxix Car. 2.

How Records
of *Nisi prius* are
to be ingrossed
and entred on
the Roll.

How by the
Clerks of the
Treasury.

IT is ordered by this Court, that the respective Prothonotaries do take Care that every Record of *Nisi prius* that is signed by them be ingrossed in a fair legible Character, and so entred on the Roll, and that at the Beginning of every Pleading it be begun with a new Line, and the first Word thereof in a greater Character than the rest. And that in all Actions that have divers Narrs, they give Notice thereof by Figures in the Margent of such Record of *Nisi prius*. And in Default thereof the said Prothonotary sign not the same. And it is likewise ordered, that Mr. *Ingram* that doth sign, and the respective Clerks of the Treasury of this Court that do ingross Records of *Nisi prius*, from thence do from time to time take the same Care of all Records made out of the said Treasury. And that all the Records of *Nisi prius*, that shall be ingrossed in this Court for the future, be of the exact Breadth of the Rolls of this Court, and not broader or lesser.

Fra. North.
Hugh Wyndham.
Rob. Atkyns.
Will. Scroggs.

Trin.

Trin. xxix Car. 2.

Whereas Complaints have been made to this Court, that divers Persons have sued out Writs of Privilege and Attachments at their own Suits, as Attornies of this Court, who have either discontinued or had their Names put out of the Roll of Attornies, remaining with the Clerk of the Warrants of this Court, or were never entered upon the Roll, and yet have prosecuted such Writs so as to free themselves from Arrests, or to force Bail where none ought to be given; for the Prevention of which Abuses, it is ordered, that the Clerk of the Warrants at the End of this and every other Term, shall certifie under his Hand to the Seal-Office of this Court, the Names of all those Attornies that have discontinued and that are fore-judged the Court, and put out of the Roll, and have not filed any Warrant of Attorney, nor continued their Names upon the Roll for above four Terms past, and that hereupon for such Persons no Writ of Privilege or Attachment be sealed until they shall have a Certificate from the said Clerk of the Warrants, or have their said Writs by him signed, to testify that their Names are upon the Roll of Attornies, for which no Fee is to be paid. And it is, farther ordered, that no Attorney

To prevent Attornies that have discontinued, &c. to sue our Writs of Privilege.

Ordered, that the Clerks of the Warrants certifie such Attornies Names to the Seal-Office, &c.

Certificate or signing by the Clerks of the Warrants.

The Rules and Orders of

ney, at any time sworn and entred upon the Roll, shall have his Privilege as a Clerk to any Prothonotary of this Court, but only as Attorney according to the ancient Custom.

*Fra. North.
Hugh Wyndham.
Rob. Atkyns.
Will. Scroggs.*

Trin. xxix. Car. 2.

*Regula generalis concernen' Recorda de
Nisi prius extra Cur' hic imposterum
emanan'.*

To prevent the
Delay of Attorneys in not
prosecuting
Records of Nisi
prior in a fit
Time.

How to be
signed.

ss. **D**ecimo sexto Junii pro meliori reformatio-
ne & preventione multarum incon-
venientiarum ratione negligenc' & dilationum
diversorum Attorn' hujus Cur' subdit' Dom'
Regis nunc conting' in non prosecutione Re-
cord' predict' pro triationibus exit' ad Assisas
infra tempus opportunum post clausum Terminii
prox' preceden' hujusmodi Assisas contra anti-
quum usum & cursum hujus Cur' Ordinat' est
quod omnia recorda predicta extra Cur' hic e-
manan' erunt signat' per respectivos Prothono-
iar' dict' Cur' ac signat' & sigillat' per Clericum

The-

Thesaurar' vel al' personam in ea parte depu-
tar' infra spatum trium septimanarum prox'
post finem hujus Termini & infra idem spatum
prox' post clausum cujuslibet Termini Sancti
Hillarii & cujuslibet Termini Sancta Trini-
tatis in futur'. Et non possea nisi pro ra-
tionabili causa special' Warrant' prouide ob-
tentum fuerit.

Per Curiam.

Fra. North.
Hugh Wyndham.
Rob. Atkyns.
Will. Scroggs.

Trin. xxix Car. 2.

A Rule for the better Observation of a
late Act of Parliament made concerning
Judgments.

WHereas by an Act of this present 29 Car. 2.
Parliament, it is enacted, that
from and after the four and twentieth Day
of June next, every Judge or Officer of
this Court, that shall sign any Judgment,
shall, at the Signing of the same, (with-
out Fee for doing the same,) set down
the Day of the Month and Year of his
so doing, upon the Paper-Book which he
shall

Concerning
signing of
Judgments, and
setting down
the Day of the
Month, &c.

The Rules and Orders of

ney, at any time sworn and entred upon the Roll, shall have his Privilege as a Clerk to any Prothonotary of this Court, but only as Attorney according to the ancient Custom.

*Fra. North.
Hugh Wyndham,
Rob. Atkyns.
Will. Scroggs,*

Trin. xxix. Car. 2.

*Regula generalis concernen' Recorda da
Nisi prius extra Cur' hic imposterum
emanan'.*

To prevent the
Delay of At-
torneys in not
prosecuting
Records of Nisi
prius in a fit
Time.

How to be
signed.

ff. **D**ecimo sexto Junii pro meliori reforma-
tione & preventione multarum incon-
venienciarum ratione negligenc' & dilationum
diversorum Attorn' hujus Cur' subdit' Dom'
Regis nunc conting' in non prosecutione Re-
cord' predict' pro triationibus exit' ad Assisas
infra tempus opportunum post clausum Termimi
prox' preceden' hujusmodi Assisas contra anti-
quum usum & cursum hujus Cur' Ordinat' est
quod omnia recorda predicta extra Cur' hic e-
manan' erunt signat' per respectivos Prothono-
tar' dict' Cur' ac signat' & sigillat' per Clericum
The-

Thesaurar' vel al' personam in ea parte depu-
tar' infra spatum trium septimanarum prox'
post finem hujus Terminii & infra idem spatum
prox' post clausum cujuslibet Terminii Sancti
Hillarii & cujuslibet Terminii Sancta Trini-
tatis in futur'. Et non postea nisi pro ra-
tionabili causa special' Warrant' prouide ob-
tentum fuerit.

Per Curiam.

Fra. North.
Hugh Wyndham.
Rob. Atkyns.
Will. Scroggs.

Trin. xxix Car. 2.

A Rule for the better Observation of a
late Act of Parliament made concerning
Judgments.

WHereas by an A&t of this present 29 Car. 2.
Parliament, it is enacted, that
from and after the four and twentieth Day
of June next, every Judge or Officer of
this Court, that shall sign any Judgment,
shall, at the Signing of the same, (with-
out Fee for doing the same,) set down
the Day of the Month and Year of his
so doing, upon the Paper-Book which he
shall

Concerning
signing of
Judgments, and
setting down
the Day of the
Month, &c.

The Mails and Orders of

Ordered, that
the Paper-
Books whereon
the Judgments
are signed be
produced.

That the Pro-
thonotary may
see if the Days
agree.

How the Rolls
are to be
brought in
Trinity-Term.

Mich. Term.

Hillary-Term.

shall so sign, the which Day of the Month and Year shall be also entred upon the Margent of the Roll of the Record, where such Judgment shall be entered. Now to the End the same may be duly and justly done, in Pursuance of the said Act, it is ordered by this Court, that the respective Attorneys and Clerks of this Court that shall procure any Judgment to be so signed as aforesaid, (after the said xxiv Day of June,) shall at the bringing in of their Rolls to the respective Prothonotary, at the same Time whereon such Judgments are entred, produce the respective Paper-Books whereon such Judgments are signed, that so the respective Prothonotary may better examine the respective Days, entred on the Margent of the Roll of each particular Judgment, that they do agree with the respective Days, signed by such Prothonotary on the respective Paper-Books. And to the End that the said respective Prothonotaries may the better perform their Duty herein, it is farther ordered by this Court, that every Attorney and Clerk that shall make such Entries, shall bring in their respective Rolls to the respective Prothonotaries in Manner and Form following, that is to say, the Rolls of every Trinity-Term in every Year, at or before the Feast Day of St. Michael the Archangel, then next following, and the respective Rolls of every Michaelmas-Term, in every Year, at or before the Feast Day of St. Thomas the Apostle, then next likewise following, and also the respective Rolls of every Hillary-Term in every

the Count of Common Pleas.

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every Year, at or before the Feast Day of the Annunciation of our Lady the Virgin, then next likewise following, and also the respective Rolls of every Easter-Term in Easter-Term.
Under Pain and Punishment, &c.
Judgments upon Writs of Inquiry.
To be delivered over to the Clerk of the Judgments.
Judgment by Confession either by Non sum inform', or Nihil dic', unless the same be brought to be signed within twenty Days after the respective Ends of every Trinity, Michaelmas or Hillary-Terms in every Year respectively, and at or before the first Day of every Trinity-Term in every Year, unless such Attorney or Clerk do produce before such.

**Under Pain
and Punish-
ment, &c.**

Judgments upon Writs of Inquiry.

To be deliver-
ed over to the
Clerk of the
Judgments.

Judgment by
Contestion ei-
ther by Non
sum informis or
Nihil dicit,
within what
Time to be
signed.

1

The Rules and Orders of

Prothonotary a Warrant, or Warrants of Attorney, that do bear Date after the End of every such Term, and then such Judgments on such Warrants so produced, may be signed at or before the Essoin-Day of every succeeding Term in every Year, and not after.

Fra. North.

Hugh Wyndham.

Rob. Atkins.

Will. Scroggs.

Mich. xxix Car. 2.

Ordered, that such Writs and Warrants as relate to Recoveries be left with the Prothonotary at the Examining and Signing the Exemplifications, with the usual Fees for Filing them with the *Custos Breuum* and Clerk of the Warrants.

Through the great Complaints that have been made to this Court, of the Neglects of Attorneys and Clerks, to file the Writs and Warrants of Attorney, whereupon common Recoveries have been suffered, and of the Mischiefs that have thereupon hapned; and for the Prevention of such Mischiefs and Dangers in Time to come, it is ordered, as well by the Consent of the *Custos Breuum*, as of the Prothonotaries and Clerk of the Warrants of this Court, that at all Times hereafter when the said Prothonotaries shall examine,

examine, and sign the Exemplifications of such Recoveries, they in their respective Offices do then cause all the said Writs, being sealed and duly returned, and all Warrants of Attorney thereupon taken without Writ to be left in their Hands to be filed, with the usual Fees for filing the same, without *post Terminums*. And that the said *Custos Brevium* and Clerk of the Warrants, or their known Deputies, shall receive from the said Prothonotaries in their respective Offices, the said Writs and Warrants of Attorney, with the said Fees for Filing thereof in Manner following, to wit, for the said Writs and Warrants prosecuted and perfected of this present Term, and every other Term of St. Michael, in *Easter-Term* then next following, and for the said Writs and Warrants of Attorney of every *Hillary-Term*, in *Trinity-Term* next after, and for the said Writs and Warrants of Attorney of every *Easter-Term*, in *Michaelmas-Term* next after, and for the said Writs and Warrants of Attorney of every *Trinity-Term*, in *Hillary-Term* then next following. And that the said *Custos Brevium*, and Clerk of the Warrants, or their said Deputies, shall give Receipts under their Hand of all such Writs and Warrants, as shall be from Time to Time received from each of the said Prothonotaries by Way of Duplicate, containing the County where the Lands lie, the Names of the Defendants, Tenants, and Vouchees, who come in by Writs of Summons. And also of the Attorneys and Clerks

They must give
Receipts for
such Writs and
Warrants by
Way of Dupli-
cate, &c.

The Rules and Directives
of Clerks Names, who prosecuted the said
Recoveries.

Fra. North.
Hugh Wyndham.
Rob. Atkins.
Will. Scroggs.

Pasch. xxx Cap. 2.

Regula pro manu Attorn' gen' ad bre-
via de Ingressu habend'.

Reciting the
former Rules
for Filing of
Writs and War-
rants of Atto-
ney relating to
Recoveries.

ss. **V**icesimo quinto Aprilis, Cum super sci-
licet Termino Sancti Michaelis ult.
praterito pro evitacione errorum sapissime con-
tingen' per negligentiam Attorn' & Clerico-
rum Curia hic in defecta debite prosecutionis
& filiationis brevium de Ingressu Sum' Seisin'
& Warrant' Attorn' super quibus coin' Recu-
perar' existissent permissa Ordinat' fuisse per
Cur' ex assensu Custod' brevium Prothonotari-
orum & Clerici Warrant' hujus Cur' quod
quandocunque Prothonotarii predicti in eorum
Officiis respective examinarent & signarent
aliquid Recuperar' per Cutiam hic exempli-
ficar' idem Prothonotarii viderent quod Bre-
via & Warrant' predict' debite executi & re-
turnat' & in eorum Prothonotariorum mani-
bus respective reliet' essent cum usual' feodi
pro affiliatione eorund' Jam ex querela Williel-
mi Jones Militis Attorn' Dom' Regis genera-
lis Justic' Cur' hic fact' quod quidam Attorn'
&

the Court of Common Pleas.

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¶ Clerici ejusdem Cur^r brevia sua de Ingressu per ipsum Attorn^r generalem sub manu sua signand^r ut officio suo pertin^r juxta Antiquum Cursum inferre negligissent in defraudatione ipsius Attorn^r general^r de feodis suis in ea parte. Ordinari est quod Prothonotari^r predict^r de falso super examinatione ¶ signat Recuperar^r curam h^eant, quod quotlibet tale breve de ingressu signat^r sit per dict^r Attorn^r generalem Alit. idem Prothonotarii ad signand^r tales exemplificationes totaliter abstineant quousque breve inde ita signat^r fuit, ¶ dict^r Attorn^r general^r desideratur quod ipse brevia predicta pro manu sua habend^r sibi deliberat sine dilatatione signare voluerit.

Ordered, that when the Prothonotary examines and signs the Recovery, he shall take Care that the Writ of Entry be signed by the Attorney General,
Or.

Per Cur^r.

Fran. North.
Hugh Wyndham.
Rob. Atkyns.
Will. Scroggs.

Trin.

Trin. xxxii Cat. 2.

**Regula generalis quoad Narrationes
in ejectione firme in London & in
Com' Midd'.**

In Ejectments
in Midd. and
London to tell
the Tenants
how to appear.

¶ **V**icesimo primo Junii Ordinai' est quod Queren' vel eor' Attorn' five partes qua deliberari fac' Narrationes in placito predicto in dict' Com' Midd. & London, super tali deliberatione inde denunciabunt tenen' in possessione tentor' in questione respective quod ipsi compareant per Attorn' Cur' hic in defensione tituli inde initio prox' Termini prox' post deliberation' Narr' ill' fact' & ulterius Ordinai' est quod queren' predicti de cezero nil capient per Motionem in Cur' hic si end' ad judicium versus casualem ejectorem pro defectu comparencie habend. Nisi hujusmodi motio fiat infra unam septimanam prox' post primum diem cujuslibet Termini sancti Mich. Et cujuslibet Termini Pasche. Et infra quatuor dies prox' post primum diem cujuslibet Termini sancti Hil. & cujuslibet Termini sancte Trin'.

Per Cur'.

Motion for
judgment a-
gainst the Ca-
sual Ejector,
must be mov'd
according to
this Rule.

Trin. xxxiii Car. 2.

Generalis regula pro Custagiis super
prosecutione ad utlagar'.

H. *V*icefimo secundo Junii Ordinat' est quod nullus Defendens qui in vel post mensem Sancti Mich. prox' futur' utlagat' fuit. Ac qui comparebit & utlagar' rever- sari faciat super reversatione ill' solvet pro custag' queren' aliquam denarior' Summam exceden' usual' custagia de Exigend' in ista Cur' una cum fine Domino Regi super brevi originali si quis solut' fuit. Et quod omnia ulteriora Custagia respectuant' usque tempus signandi Judicium pro Queren'. Et ulte- rius Ordinat' est quod quilibet Defendens sic utlagat' & utlagar' illam reversari faciens si Querens superinde non processit infra duos Terminos prox' post notitiam reversationis inde, habebit Custagia per Prothono- tarium taxand'.

Upon reversing
Outlawry De-
fendant shall
pay nothing
exceeding the
usual Fess, &c.

Other Charged
shall be respi-
ted until, &c.

If Plaintiff pro-
ceed not in two
Terms, Defend-
ant to have
Costs, &c.

Per Curiam.

G

Pasch,

Pasch. xxxiv Car. 2.

Regula generalis de Statuto penali.

How the Postea
upon Action by
Quic tam, &c.
and Verdict
for the King,
shall be deli-
vered to the
Prothonotary.

ff. **S**exto Maii Ordinat' est quod quandocun-
que actio per aliquem qui tam, &c.
pro Domino Rege super aliquo statuto penali
prosecut' & triata fuit & ubi veredictum pro
Domino Rege reddit' fuit le postea primo die
prox' Termimi prox' post veredictum pred' sic
reddit' per Clericum Assisar' returnat delibe-
retur in hanc Cur' ad manus Prothonotarii
in cuius Officio causa existit & minima par-
ti prosequend' & quod judicium superinde in-
tretur de Recordo ita quod pars illa penali-
tat' qua Domino Regi pertinet debite levari
possit. Et ulterius Ordinat' est quod cum ju-
dicium intrai' fuit de Recordo Nota fure
Præcipe Recordi illius cum Numero Rotuli
inde deliberetur per Clericum Judicior' Cle-
ricico Warrant' bujus Cur' ut summa five
finis ille Domino Regi sic pertinens per
ipsum Clericum Warrant' inter al' in Sum'
dicti Domini Regis debite extrahetur Quod-
que idem Clericus Warrant' pro receptione talis
Nota five Præcipe manum suam apponet
ad papirum Clerici Judicior' pro Judicio
pred' intrand'.

Per Curiam.

Note to the
Clerk of the
Warrants.

Pasch.

Pasch. xxxiv Car. 2.

Regula pro manu Attorn' general' ad
Brevia de Ingressu habend'.

II. **D**ecimo tertio Maii Super querimonia Roberti Sawyer Militis Attorn' Domini Regis generalis Justic' Cur' hic fact' quod quamplurima Brevia de Ingressu in le post qua per ipsum ut Attorn' general' sub manu sua signari debeant per diversos Attorn' & Clericos hujus Cur' adhuc prosecut' sunt. Et sine manu ipsius Attorn' generalis prius habbit' affilantur in defraudatione ejusdem Attorn' de feod' suis & contra regulam Cur' hic in ea parte fact' Ordinat' est quod Prothonotar' hujus Cur' curam habeant, & quilibet eorum in Officio suo respective vident cum examinavit aliquod Recuperat' per Breve de Ingressu pred' quod Breve illud per pred' Attorn' generalem sub manu sua signetur Quodque Prothonotarius nullum tale Breve ad affiland' recipiet Nisi per pred' Attorn' ita signat' fuit.

Ordered, That
the Prothono-
taries take care
the Writs of
Entry be sign-
ed.

Per Curiam.

Pasch. xxxiv Car. 2.

Concerning the
bringing Rolls
into the Office.

Ordered, That
no Roll be de-
livered to such
as make default
in bringing in
their Rolls.

Prothonotary's
Book to be
signed.

THE Justices of this Court taking Notice, and considering the great Mischiefs which may and do happen, by reason that several Attorneys and Clerks of this Court to whom the Prothonotaries of this Court have delivered Rolls, have not in due time brought them back to be filed, whereby they have been in Danger to be lost, and subject to have Judgments unduly entred upon them, to the great Damage of Purchasers, and Scandal of the Court; for Prevention of which Mischief it is now ordered, that none of the Prothonotaries of this Court shall hereafter deliver any Roll or Rolls to any such Attorney or Clerk, who appears to be a Defaulter against this Order, in not bringing back his Rolls in due time, until they shall have brought in respectively such Roll or Rolls that they had delivered unto them; and that it may appear in whose Custody all Rolls are, it is farther order'd for the future, every Attorney or Clerk that shall receive any Roll, either Plea or Common from the respective Prothonotaries of this Court, shall sign and set his own Hand to such Prothonotary's Book, from whom they shall receive the same, for the Receipt of such Roll or Rolls, and that no Prothonotary do deliver any Rolls to any other, but to

to the proper Hands of some known Attorney or Clerk of their respective Offices. And it is farther ordered, that the said respective Prothonotaries of this Court, do and shall, the first Day of every Term for the future, take an Account of what Rolls are wanting, of the precedent Term in their respective Offices, and shall respectively render an Account thereof to this Court, the second Day of the succeeding Term, that so the Court may take Order for the bringing them in. And it is farther ordered, that every Attorney and Clerk of this Court that shall receive any Roll or Rolls as aforesaid, Plea or Common of this or any other *Easter* Term for the future, shall bring in the same to the Office from whence he received the same, at or before the first Day of the next *Trinity* Term, and that the Rolls received of any *Trinity* Term for the future, shall be brought into such Office, at or before the Feast-Day of St. Michael the *Archangel* next ensuing, the said Term yearly. And that Rolls received of any *Michaelmas* Term, for the future, shall be brought into such Office at or before the sixth Day of *January* next, after the said Term yearly. And that the Rolls received of any *Hillary* Term for the future, shall be brought into such Office, by the Space of four Days before the Feast of *Easter* next, after the said Term yearly. And it is farther ordered by this Court, that the Clerk of the Esloins for the future shall not presume to deliver any Post-Rolls or other Rolls of this Court, to any Attorney or Clerk of this Court, but to the respective

Prothonotaries
to give an Ac-
count to the
Court of the
Rolls wanting.

How to be
brought in.

Those of *Easter*
Term.

Those of *Tri-*
nity Term.

That of *Mich.*
Term.

Those of *Hil.*
Term.

Post-Rolls to
be delivered
out to the Pro-
thonotaries,
&c.

The Rules and Orders of

No Roll to be
carried into the
Country.

Penalties if a-
ny be so car-
ried.

Prothonotaries, and other Officers of this Court, that have a Right to such Rolls. And if any Attorney or Clerk of this Court shall at any time for the future presume to carry any of the Rolls of this Court into the Country, after they have been delivered to them by the respective Officers, to enter Causes there, contrary to the ancient Rules and Orders of this Court, this Court doth declare, that they will cause all the Penalties to be inflicted on such Persons as shall Act to the contrary; and upon Notice of such Offenders, the Court will further proceed against them as Contemners of the Rules of this Court.

*Fra. North.
Hugh Wyndham.
Job Charlton.
Creswell Levinz.*

De

De Termino Sancti Michaelis Anno
Regni Domini Caroli Secundi
nunc Regis Angliae, &c. tricesimo
Sexto.

*Concerning the Admittance of Atto-
nies of some of the Inns of Court or
Chancery.*

WHereas divers Complaints have been made to this Court, that manifold Inconveniences daily happen, for that many Clerks and Attornies of this Court have not been admitted of any of the Inns of Court or Chancery; which, if they were, they might be better known and more readily resorted to, whereby Business of Law might be better managed, which cannot be so easily done if Clerks and Attornies of this Court be permitted to lodge out of the Inns of Court or Chancery, contrary to the ancient Usage, and to the great Damage of the King's People, through Surprises thence taken and Insisted upon; and to the Detriment and Decay of the Societies of Law: For Prevention of which Inconveniences, and to establish a Remedy for the future, It is ordered by this Court, that all Clerks and Attornies of this Court already admitted of this Court (not already

Anno 36 C. 2.

Ordered.

The Rules and Orders of

That all Clerks
Or. admitted
of the Court
should also be
admitted of
some Inns of
Court or
Chancery if,
Or.

None hereafter
to be admitted
Clerk or At-
torney without
a Certificate.

Produce Cer-
tificate.

To be filed in
the Prothono-
tary's Office.

admitted in some of the Inns of Court or Inns of Chancery) shall be admitted into some of the Inns of Court (if those Honourable Societies shall please to admit them) or into some of the Inns of Chancery before the End of *Hillary Term* now next ensuing, and take Chambers there (if conveniently it may be done); else that they take Lodgings in convenient Places near the said Inns, and leave Word with the Butler or Porters of such Inn where their Chambers or Habitations are, upon Pain of being put out of the Prothonotary's Book and the Roll of Attornies, except such Persons who are and shall be hereafter House-keepers in *London, Westminster, Southwark*, or the Suburbs thereof, and the Liberty of the Tower of *London* and St. *Katharine's* there, and such who are sworn Attornies of any Courts within the said Cities, Town and Liberties; and that no Person whatsoever shall hereafter be admitted or sworn a Clerk and Attorney of this Court, unless he be first admitted of some of the Inns aforesaid, and bring and produc at the Time of his being admitted or sworn, a Certificate under the Hand of the Treasurer or Principal of the said Inn whereof he is admitted (without paying any thing for the same) testifying his Admission; which Certificate every Clerk so to be admitted shall deliver to the Prothonotary, in whose Office he shall be so admitted, to be by him filed before such Clerk's Name be entred into the Prothonotary's Book, by him kept for that Purpose,

pose; and every Attorney so sworn, such Certificate shall deliver to the Clerk of the Warrants of this Court for the Time being, to be by him filed before such Attorney's Name be entred into the Roll of Attornies of the said Court, remaining with the said Clerk of the Warrants, unto which File of Certificates the Treasurers and Principals may from Time to Time resort, as they shall see Cause. And it is further ordered by this Court, that if Case any Clerk or Attorney of this Court already admitted, or hereafter to be admitted into one of the Societies aforesaid, do put himself out of the said Society whereof he stands admitted, that then he shall, within one Term after he shall so put himself out of the said Society, admit himself into another of the said Societies. And in case any Clerk or Attorney offend against this Rule, he is to be put out of the Prothonotary's Book or Roll of Attornies, until he give Obedience unto the same; and the Prothonotaries and Secondaries, and all other Officers whom it may concern, are required to give Obedience to this Order, and to see that the same (as to themselves) be duly observed.

And another
by the Clerk
of the War-
rants.

To which Files
the Treasurers
and Principals
may resort.

If one admitt-
ed puts him-
self out of that
Society,

He shall with-
in a Year ad-
mit himself in-
to another.

Prothonotaries;
Or to see this
Rule be duly
observed.

*Tbo. Jones.
J. Charlton.
Creswell Levinz.
T. Street.*

De

**De Termino Pasch. Anno Regni Re-
gis Jacobi Secundi primo.**

*Concerning Attorneys suffering others to
practise in their Names.*

Whereas every Attorney of this Court, as well by his Oath and by the Duty of his Place, as under divers Penalties by several Acts of Parliament and former Orders of this Court, being retained to be Attorney for any Person or Persons, Defendant or Plaintiff, Tenant or Defendant, in any Action or Suit in this Court, is bound to deliver, or cause to be delivered, his Warrant of Attorney to the Officer, or his Deputy, ordained for the Receipt and Entry thereof in this Court. And whereas by a Statute made in the 3d Year of the Reign of our Sovereign Lord King James, It is enacted, that no Attorney shall permit any other to follow any Suit in his Name; and that every Attorney so doing, shall be excluded from being an Attorney for ever thereafter. And whereas by Order of this Court every Attorney of this Court ought to appear in Person upon, or before the fourteenth Day of Michaelmas-Term, and upon or before the seventh Day of every other Term, upon Pain of ten Shillings the first Default, twenty Shillings for the second Default,

Warrants of
Attorney be
delivered to
the proper Of-
ficer.

Attorneys per-
sonal Appear-
ance in Court
every Term.

Default, and putting out of the Roll for the third Default, and that the Appearances should be entred with the Clerk of the Warrants, and that the Names of the Defaulters should be delivered to the Court by the Clerk of the Warrants, or his Deputy, within three Days after the Time required for Appearances. Notwithstanding all which Laws and Orders through the disorderly Practice and Negligence of divers Attornies of this Court, especially of the younger Sort, for Want of their Attendance upon their Office of Attorney here in Court, and permitting others to practise in their Names, and neglect to deliver their Warrants of Attorney to be filed and entred of Record, very many great Inconveniences, Troubles and Errors have been found and arisen of late Time more than formerly, to the Scandal of the Court, and of the honest Attornies practising therein, and the great Prejudice and Loss of many of his Majesty's good Subjects, as well Plaintiffs as Defendants, Demandants and Tenants in their Suits depending in this Court.

For the Remedy of which Mischiefs and Inconveniences, and for avoiding of Errors for the Time to come, It is forbidden by the Justices of this Court, upon Pain of Expulsion from this Court, that no Attorney of this Court permit any one to practise in his Name; and it is farther declared and ordered by this Court, that every Attorney of this Court do from henceforth appear in Person within the Times in every

Of Defaulters
Names to be
delivered in.

That thro' re-
glect of former
Orders many
Inconvenien-
cies have hap-
ned.

To the Scandal
of the Court,
&c.

For Remedy
whereof.

That they ap-
pear in Per-
son, *&c.* in e-
very Term,

And duly file
all Warrants.

the

The Rules and Orders of

the Term before limited and expressed, under the Penalties before-mentioned for their Defaults. And that every Attorney of this Court do file his Warrant of Attorney of the Term wherein any Exigent is awarded, Demurrer or Issue joined, or Judgment entered, or which of them shall first happen, upon Pain of forty Shillings for every Time he offendeth, and be attainted by the Examination made by the Justices of this Court; such Warrant to be filed upon, or before the Essoin-Day of every *Trinity-Term*, and within the Space of one and twenty Days next after the End of every other Term.

And that no Officer of this Court do make or suffer to be made any Process or Entry in the Name of any Person not Sworn an Attorney, nor entred in the Roll of Attornies, or in the Name of any Person put out of the Roll of Attornies, either as a Discontinuer, or for any Misdemeanor, or

by Rule of Court after Notice thereof given to such Officer by the Clerk of the Warrants of this Court for the Time being, or his Deputy, and for the better effecting the due Observance of this present Order, It is

lastly ordered, that the Clerk of the Warrants of this Court for the Time being, or his Deputy, or the Persons appointed yearly by the Court to give Information to the Court from Time to Time of Breaches of Orders and Miscarriages of Officers, Clerks and Attornies in every *Michaelmas-Term*, or oftner, if required, shall and may present to the Court from Time to Time the Name

No Process or
Entry to be
suffered in the
Name of any
Person not
sworn an At-
torney, or put
out of the Roll,
&c.

After Notice
given by the
Clerk of the
Warrants, &c.

Clerk of the
Warrants to
give Informa-
tion of Mis-
carriages.

Name and Names of every Attorney or Attorneys offending against this Order. To the Intent that the Court may examine every Attorney complained against concerning any of the Matters before rehearsed, and upon Attainting any such Attorney upon due Examination had, may inflict such Punishment by Fine, Imprisonment or Expulsion, as the Case shall require, or give Directions for Informations to be exhibited against the most frequent and notorious Offenders for the greater Penalties mentioned in the Statute thereof made and provided.

That they may
be punished,
&c.

*Tho. Jones.
J. Charlton.
Crefwell Levinz.
J. Street.*

Do

The Rules and Orders of

De Termino Sanctæ Trinitatis Anno Regni Regis Jacobi secundi primo.

*Concerning Sheriffs for making Deputies,
and returning of Writs.*

That every Sheriff shall make a Deputy to receive Writs, &c.

IT is ordered, that every Sheriff shall make and cause to be entred on Record a sufficient Deputy to receive all Manner of Writs and Proceses under the Pains and Penalties mentioned in the Statute in that Behalf made in the twenty-third Year of the Reign of our late King Henry the Sixth, which Law shall be duly henceforth put in Execution. And it is farther ordered, that the said Sheriffs, or their sufficient Deputies, shall give their personal Attendance in Westminster-Hall daily in the Term-time, that so they may, with more Convenience, dispatch those Services which appertain to their Offices respectively. And that no Sheriff, or Sheriff's Deputy, shall deliver or make, or cause or suffer to be delivered, or made, any Warrant or Warrants before the Writ or Writs be duly sued forth and delivered to the said Sheriffs, or their Deputies respectively. Neither shall the said Sheriffs

Not to make out any Warrants before the Writ duly sued forth.

iffs, nor their Deputies, deliver, or cause or suffer to be delivered any blank Warrants; nor shall any Clerk or Attorney of this Court, receive or procure to be made, any such Warrants, upon Pain of severe Punishment and Fine to be imposed upon the said Sheriffs and their Deputies, and utter Expulsion of the said Clerks or Attorneys respectively offending in the Premises.

Nor to deliver
our any blank
Warrants.

Nor any
Clerk or At-
torney to pro-
cure any such.
Upon Pain of
severe Punish-
ment, &c.

Tho. Jones.
J. Charlton.
Creswell Levinz.
T. Street.

Do

De Termino Pasch. Anno secundo
Jacobi secundi Regis.

*Concerning Clerks of Assise, and the Lord
Chief Justice's Associate returning Po-
stea's by a Time limited.*

Inconveniences happening to Subjects thro' the Clerk of the Assizes neglecting to return the *Nisi prius* and *Postea's* at the Day in Bank.

And also to the Justices of the Court, &c. in deferring their Judgments.

THE King's Majesty's Justices of this Place, taking Notice that divers of his Majesty's good Subjects of this Realm of England, concerned in Suits depending in this Court, have of late Time been very much delayed, and put to great Trouble and Charge, in Attendance and otherwise, by Reason that the Clerks of Assise within the respective Circuits of this Kingdom, have neglected to make Returns of the Records of *Nisi prius* or *Postea's* in this Court, at the Days in Bank, as the Law requires, and the antient Usage hath been; and through Default of the said Clerks of Assise, the said Justices of this Court cannot be legally informed of the Matters acted at the Assises; which only can appear upon the Return of the *Postea*. And therefore are enforced, very often, to defer their giving of Judgment unto further Days, contrary to the Good-liking of the said Justices, whereby the People are much prejudiced, and thereof have made many Complaints

Complaints to this Court. The said Justices being desirous to prevent the like Inconveniences for the future, and as much as in them lieth to provide a fit Remedy, do order, that every Clerk of Assize of the respective Circuits within this Realm of England, and also the Associate to the Lord Chief Justice of this Court, shall make Returns of all *Postens* upon all Records issuing out of this Court, whereupon any Proceedings have been, by Virtue of any Writ of *Nisi prius*, *Distringas*, *Habens Corpora Jur*, and shall cause the same to be delivered to the respective Prothonotaries of this Court, upon the *quarto die post*, of the Return of the Writ of *Nisi prius* in Bank, upon Pain of forfeiting the Sum of twenty Pounds, to be esteemed into the King's Majesty's Court of Exchequer; and that all Pretence of Excuse may be taken away, and due Observation of this Order may be had and made, it is further ordered by the said Justices of this Court, that the respective Clerk of Assize in the respective Circuits, and also the said Associate in London and Middlesex, at the Trial of every Cause by Record of *Nisi prius* issuing out of this Court, shall take the Fees due unto them respectively, for the Return of every such Posten.

Ordered, That
the respective
Clerks of Assizes,
and the
Chief Justices
Associate,
Shall make Re-
turns of all
Postens, &c.

And cause them
to be delivered
to the respec-
tive Prothono-
notaries.

Hen. Bedingfield.
T. Street.
Ed. Lutwyche.
John Powell.

De Termino Sanctæ Trinitatis Anno Regni Regis Jacobi secundi secundo.

Concerning Outlawries.

Upon Complaint of Sir R. S. Attorney General, of Misdemeanors about reversing Outlawries privately, &c.

Ordered, That no Outlawry after the Plaintiff's Death be reversed.

WHereas upon Complaint made unto this Court by Sir Robert Sawyer, Kt. his Majesty's Attorney General, that several Defendants for not appearing upon the Exigent, being returned Outlawed, continue in Contempt till after the Death of the Plaintiff, and before such Time as the Executor or Administrator of the Plaintiff could have Knowledge, or before the Will proved, or Letters of Administration granted, such Defendants privately without special Bail, and contrary to several particular Orders of this Court heretofore in that Behalf made, have reversed the said Outlawries to the Prejudice of the King's Interest, though the Defendants, by reason of the Plaintiff's Death, are not less in Contempt than before, nor the Outlawry in the least to abate by reason thereof. Now for the Prevention of the like Mischief, It is ordered, that no Outlawry for the future, after the Death of the Plaintiff in the Action, be reversed without the Defendant's Appearance and putting in special Bail (if the Action so requires) to the Executor or Administrator of the Plaintiff or

to the Husband and Wife, in case where the Wife, whilst a *feme sole*, sued the Defendant to an Outlawry before Marriage; Provided that the Plaintiff's Attorney do, within fourteen Days after Notice to him given of the Defendant's Intention to reverse such Outlawry, deliver the Name or Names of the Executor or Administrator of such Plaintiff or Plaintiffs deceased, to the proper Prothonotary of this Court. And for the better Execution of the Process of Outlawry to be made and issued by and out of this Court, and the Prevention of divers Abuses by Neglect of the same, and for the better regulating of the Reversal of Outlawries, It is ordered, that upon every Writ of Exigent which shall be sued forth of this Court from and after this Term, if a *Supersedeas* be not put in thereunto, at or before the Day of Appearance thereof, that no *Supersedeas* shall by any Sheriff be allowed to any such Writ until the Defendant shall have paid unto the Plaintiff or his Attorney, or left in the Court with one of the Prothonotaries thereof the full and just Costs of Suit therein. And that upon reversing all and every Outlawry the Party Defendant, which reverseth the same, shall before the Reversal thereof, or any *Supersedeas* made thereunto, give special Bail, if the Sum of Money or Damages expressed in the Original, whereupon the Exigent was awarded, shall amount to the Sum of ten Pounds or upward, and pay to the Plaintiff or his Attorney, or leave in the Court for him or them, the

Provided the Plaintiff's Attorney within fourteen Days after Notice of Defendant's Intention to reverse the Outlawry, deliver the Names, &c., to the proper Prothonotary, &c.

Also that if no *Supersedeas* be put in before, &c.

That then the Sheriff shall not allow a *Supersedeas* thereunto until, &c.

Special Bail where the Sum or Damages in the Original amount to 10*l.* or upwards.

The Rules and Orders of

full and just Costs of Suit to the Exigent as aforesaid. And where the Plaintiff, by Virtue of such Outlawry, hath taken an Inquisition, and extended into the King's Hands the Goods, Chattels, Lands or Tenements of the Outlawed Person, and returned the same into the Exchequer, such further just and reasonable Costs shall then be taxed by the Prothonotary, and likewise paid to the Plaintiff or his Attorney, or left in Court for him, or them, as the Plaintiff hath been at in taking and prosecuting the said Inquisition, before any Certificate of such Reversal shall be made by the Clerk of the Outlawries in that Behalf. And for the Prevention of the great and common Abuse by Sheriffs Officers and Bailiffs for enlarging of Persons arrested upon *Capias Utilagarium* before Judgment without a lawful *Supersedas* in that Behalf first delivered unto him of them, that upon Affidavit thereof made and filed, every Person offending therein shall pay the Sum of Forty Shillings to the Party grieved, who shall have an Attachment of Course against such Sheriff, Officer, Bailiff, or Party offending for Payment of the same, and the Party or Parties so offending shall likewise undergo such other Punishment as by the Court shall be thought fit.

And an Attachment may be had against them of course for Payment of the same, &c.

*Hen. Bedingfield.
T. Street.
Ed. Lutwyche.
Joh. Powell.*

De

De Termino Sancti Hillarii Anno
Regni Domini Jacobi secundi Re-
gis secundo & tertio,

WHereas by the ancient Practice of this Court it hath been used, and not only provided, by several Acts of Parliament in that Case made, under great Penalties, but also by several Orders of this Court pursuant thereto, that every Attorney as well for the Plaintiff as Defendant in any Action, Suit or Plea in this Court depending, should deliver his Warrants of Attorney in every such Action, Suit or Plea wherein he is named Attorney, to be entred and filed on Record with the proper Officer appointed to receive and file the same ; notwithstanding which ancient Practice, Statutes and Orders, many Attorneys not regarding their Oaths, nor fearing the Penalties in the said Statutes and Orders provided, do neglect to file their Warrants of Attorney, especially upon Issues joined and Process to the Outlawry ; for Remedy whereof it is further ordered by the Lord Chief Justice, and other the Justices of this Court, that from henceforth every Plaintiff's Attorney who shall prosecute any Cause to Issue, shall upon the Delivery of the Copy of such Issue receive of the Defendant's

Concerning fil-
ling of War-
rants of Attor-
ney.

Especially upon
Issues joined
and Proces to
the Outlawry.

Ordered, that
the Plaintiff's
Attorney upon
delivering the
Copy of the
Issue, receive
the Fee for fil-
ing his War-
rant, &c.

The Rules and Orders of

Attorney the Fee for the filing his Warrant therein, and in case the Defendant's Attorney shall refuse to pay the Plaintiff's Attorney for the same, that the Plaintiff's Attorney shall sign Judgment in like Case, as if the Defendant's Attorney had refused to pay for the Copy of the Issue or Entry of his Plea; which said Plaintiff's Attorney shall file as well the Defendant's as Plaintiff's Warrant of Attorney, before the making up his Record therein; and to the End this Order may be the more effectually observed, it is further ordered, that the Clerk of the Treasury for the Time being shall not for the future sign or seal any Record of *Nisi prius*, unless the same be first signed or stamped by the Clerk of the Warrants or his Deputy, to the End it may thereby appear that the Warrants of Attorney are duly filed; and it is likewise ordered, that no Exigenter shall receive any *Pluries Capias* in order to make an Exigent or Proclamation thereon, before the same be signed or stamped by the said Clerk of the Warrants or his Deputy, to the End it may likewise thereby appear that the Warrants of Attorney therein are duly filed; and for the more easie Dispatch of Business, It is further ordered, that the Clerk of the Warrants, by his Deputy or other Clerk, attend at the Treasury Chamber, where the Records of *Nisi prius* are sealed, three Weeks after every Issuable Term, or so long as Records are sealed, without a Judge's Warrant, there to receive

No Record of
Nisi prius to be
sealed, unless
first duly sign'd.

And Clerk of
the Warrants
to attend
where the Re-
cords of *Nisi
prior* are sealed.

ceive and take the said Warrants of Attorney.

Hen. Bedingfield.

T. Street.

Ed. Lutwyche.

Job. Powell.

An Order upon Outlawries transcribed into the Court of Exchequer.

Where any Outlawry shall be transcribed into this Court, and Process made out thereupon, and afterwards such Outlawry shall be reversed before any Judgment shall be entred for the removing the King's Hands, and the Party Outlawed restored to his Possession, the Prosecutor of such Outlawry shall be paid such Costs as shall be taxed by their Majesties Remembrancer or his Deputy for the Proceedings in this Court.

Upon Reversal
of an Outlawry
transcribed
into the Court
de Scaccar.

Luna xiii Maii 1689.

It is this Day ordered by the Court that the Rule abovementioned shall be made

H 4

The aforesaid
Rule made an
Order of Court,
an Oct.

The Rules and Orders of
an Order of this Court, and that the same
shall be entred amongst the Orders and
Rules of this Court.

*R. Atkins.
Ed. Nevill.
N. Lechmere.
Jo. Turton.*

De Termine Sanctæ Trinitatis Anno
primo Gulielmi & Mariae.

Concerning
putting in Bail
with the proper
Filacer.

WHereas very many Mischiefs and In-
conveniencies do arise unto the
Plaintiffs in Causes depending in this Court,
whose chief Design in bringing their Ac-
tions is many times to get good Bail there-
unto, and thereby to secure their Debts,
It is ordered, this present Trinity Term, that
the Defendant or their Attornies, who
shall hereafter put in any Bail to any *Capias ad respondend'* or other Filacer's Writ,
shall duly have Recourse to the proper Filacer,
in whose Office such Bail ought to be entred,
and shall with him or his Clerk either come
into this Court, or with him or his Clerk
attend one of the Judges thereof to take the
same ; and in Case any Filacer's Bail shall
be taken contrary to this Order (except it
be taken in the Circuit, which, if delivered
to

the Court of Common Pleas.

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to the proper Filacer by the first Day of the succeeding Term, that so he may have Time to enter it upon Record, shall be as good as such as are taken, as is above ordered) this Court will punish such Contempt; and in order to make the Attorney for the Defendant vigilant in his Client's Business, this Court doth further declare, that where any Filacer's Bail is taken without the proper Filacer, it is as no Bail, and the Plaintiff is at Liberty to proceed on the Sheriff's Bond, as if no such Bail were ever put in. And that before the Defendant shall be admitted to plead to the original Action, he shall pay full Costs to the Plaintiff.

If any Filacer's
Bail be taken
contrary to this
Order, except
in the Circuit,
&c.

The Court will
punish the
Contempt.

And Defendant
to pay full
Costs before he
pleads to the
Original.

Mrs. Pollexfen.

Job. Powell.

Tho. Robley.

P. Venorick.

De

De Termino Sanctæ Trinitatis Anno
Gulielmi & Mariæ secundo.

Concerning
Rules for She-
riffs to bring in
the Bodies ta-
ken upon Filac-
cer's Proces.

To be given by
the Filacer
from whom
such Proces
issued, &c.

TO prevent the Mischiefs and Incon-
veniencies that may attend the entring
and doing Business in wrong Offices, and
the Injury that must necessarily follow to
the proper Officers, it is ordered this pre-
sent *Trinity-Term*, that all Rules for the She-
riff to bring in the Body of a Prisoner taken
upon any Proces, which hath or shall if-
fue, or which ought to issue out of the Of-
fice of any Filacer, be for the Future given
by the Filacer from whom such Proces is-
sued, or ought to have issued, and by none
other whereof the Attornies Clerks, Under-
Sheriffs of the several Counties, and all o-
thers, whom it may concern, are to take
Notice.

*Hen. Pollexfen.
Job. Powell.
Tho. Rokeby.
P. Ventris.*

De

De Termino Sanctæ Trinitatis Anno secundo Willielmi & Mariae Regis & Reginæ Angliæ, &c.

WHereas upon Examination it appears to us that divers Persons have taken upon them to take Affidavits in the Country (which have been filed and made use of in this Court) without being authorized thereunto as the Statute directs. We do therefore, for the preventing the like Abuse for the Future, order, that the Secondaries of the several Offices shall not file any Affidavits taken before any Person that is not commissioned to do the same; and to that End Books of the Names of all such Persons as are or shall be lawfully authorized to take Affidavits in the Country, to be made use of in this Court, shall be delivered to and kept by the said Secondaries, and that no Affidavit shall be read in Court before the same be filed.

Concerning Af-
fidavits in the
Country, taken
by Persons not
commissioned.

That the Se-
condaries file
no Affidavit, un-
less taken by a
Commissioner.

No Affidavit to
be read before
it be filed.

*Hen. Pollexfen.
John Powell.
Tho. Rokeby.
P. Ventris.*

Orders

Orders to be observed by Commissioners, empowered by Commission, in Pursuance of an Act of Parliament for taking Special Bails in the Country, upon Actions and Suits depending, or to be depending in their Majesties Court of Common Pleas at Westmister.

That a true Copy of the Writ be on Parchment;

and the Bail-piece thereon engrossed,

as in this Rule.

A. B. Attorn^r
pro Delend^r.

First, It is ordered, that before any Bail be taken by Virtue of the said Act, a true Copy of the Writ on Parchment to which the Defendant is to put in Bail, shall be brought to the Commissioner before whom such Bail is to be taken; and thereupon the Recognizance or Bail-piece shall be fairly drawn and engrossed on the said Parchment Copy, in this or the like Form, as the Case shall be, viz.

Manucaptiores Johannes Denn de Blackbarnesley in Paroch. de Settle in Com. Ebor. Gen. & Richardus Fenn de eadem Gen.

Pars ipsa in xx l.

Uterque M. in xl.

Capt. & cognit. decimo die Martii Anno Dom. 1692. de bene esse coram me A. B. Un' Commissionar.

If the Defendant be not present, then the Bail are usually bound in double the Sum in the Writ, otherwise only single.

The Condition of which said Recognizance shall be to this Effect, viz.

You (naming the Defendant if present) do acknowledge to owe unto the Plaintiff xx l. And you (naming the Bail) do severally acknowledge to owe unto the same Person the Sum of x l. a-piece, to be levied upon your several Goods and Chattels, Lands and Tenements, upon Condition, that if the Defendant be condemned in the said Action, he shall pay the Condemnation, or render himself a Prisoner to the Fleet for the same; and if he fail so to do, You (naming the Bail) do undertake to do it for him.

The Condition
of the Recog-
nizance.

Secondly, It is ordered, That the Affidavit of the due Taking of every such Bail shall be made either before some Judge of the Common Pleas to whom the Bail shall be transmitted; or before some Person who shall have Power to take Affidavits in Matters and Causes depending in the said Court.

Thirdly, It is ordered, That all Bails taken by any Commissioner within the Distance of forty Miles from the Cities of London and Westminster, shall be transmitted to the Lord Chief Justice of the Court of Common Pleas, or to one of the Justices of the said Court, within ten Days after the Taking thereof; and all Bails taken by any Commissioner above the Distance of forty Miles from the said Cities of London and Westminster shall be transmitted within twenty Days after the Taking thereof, unless all the said Justices shall be

Affidavit of the
due Taking.

How to be
transmited,
and when.

The Rules and Orders of

be in their Circuits, and then as soon as any one of them shall be returned to London out of his Circuit.

**Every Com' to
keep an en-
tring Book.**

Fourthly, Also every Commissioner is to have a Book kept purposely for entring exactly the Names of the Defendant and his Bail, and of the Plaintiff, as it is in the Bail-piece, and the Time of the Taking thereof, and the Name of him by whom such Bail shall be transmitted.

To which Plaintiff's At-
torney may re-
pair, to accept
or except a-
gainst the Bail,
&c.

Fifthly, It is further ordered, That the Plaintiff's Attorney shall be at Liberty to repair to the Commissioners Book for the Names of the Bail, to the End that they may enquire of the Sufficiency of them; and if they are found insufficient, they may except against them within twenty Days after the said Bill is transimitted, and Notice to the Plaintiff, or his Attorney, of the Taking thereof: And in that Case the Defendant must either put in better Bail, or the Cognizors of such Bail must justify themselves in open Court, either by Affidavit taken before such Commissioner that took the said Bail, or by Oath made in Court, or before one of the Judges of the said Court.

*GEO. TREBY.
ED. NEVILL.
JOHN POWELL.
THO. Rokeby.*

Term. Pasch. 5 Gul. & Mar.

WHereas upon Complaint made by the Prothonotaries, and the Clerk of the Treasury of this Court, on Behalf of themselves and the Under-Clerks of the Treasury, that many Attornies and Clerks of this Court neglect to enter their Issues of the Term wherein they are joined, but many Times enter them of subsequent Terms, without any Warrant or Authority for the Doing thereof, to the apparent Damage and Loss of the said Clerks in defrauding them of their just and due Fees. Now for the Prevention thereof, and of many other Inconveniencies and Mischiefs frequently committed, and hapning by such and the like Neglects, It is ordered by the Lord Chief Justice, and other his Brethren, Justices of this Court, that from henceforth all Issues be entred of the Term they are joined, and not of any other subsequent Term whatsoever, and that the Prothonotaries of this Court shall not give any Licence or Authority for the Entry of any such Issues, nor shall the Clerk of the Elsains deliver out any Post-Rolls for the Doing thereof, nor shall the Clerk of the Treasury permit any such Issues to be entered in the Treasury upon any Account whatsoever. And it is further ordered, that

Concerning en-
tring of Issues
that are join'd.

Ordered, That
all Issues be en-
tered of the
Term they are
joined.

The Prothono-
taries, &c. to
give no Li-
cence to enter
of a subsequent
Term.

the

The ROLLS AND OFFICES OF

the respective Prothonotaries of this Court
for the Future, shall not sign any Records of
Nisi prius, until the same or an *Incipitur*
thereof be fairly entred upon Record, and
the Fees first paid for the Entry thereof.

Geo. Treby.
Ed. Nevill.
Job. Powell.
Tho: Rokey.

Term. Pasch. 5 Gul. & Mar.

Concerning
bringing Rolls
into the Clerk
of Essoins:

WH^EREAS by an antient Rule of this Court made in the sixth Year of the Reign of King James the First, the Rolls of Trinity, Michaelmas and Hillary Terms are to be brought into the Clerk of the Essoins by the several Officers of this Court, before the Essoin-Day of the Terms following, and the Rolls of Easter-Term, on or before the first Day of Trinity-Term following, and that Officer which doth not bring in his at the Times aforesaid, is to pay to the Clerk of the Essoins for every Roll wanting xii d. and whereas by a late Act of Parliament entitled, *An Act for the better Discovery of Judgments in the Courts at Westminster,* the

By late Ac for
better Discov-
ery of Judg-
ments.

Clerk

Clerk of the Essoins is to make an Alphabetical Dogget of all the Judgments entered in this Court of *Michaelmas* and *Hillary* Terms before the last Day of the several Terms following; and of the Judgments of *Easter* and *Trinity* Terms before the last Day of *Michaelmas* Term following, under the Penalty of one hundred Pounds. And whereas by reason of the late bringing in of the Rolls of late Years contrary to the said Rule of Court, the Clerk of the Essoins hath not Time sufficient to dogget the Judgments by the Time limited in the said A^t of Parliament, It is therefore hereby ordered by this Court, that the several and respective Officers of this Court shall deliver in all their Rolls of *Trinity*, *Michaelmas* and *Hillary* Terms to the Clerk of the Essoins before the Essoin-Day of the several Terms following, and their Rolls of *Easter* Term on or before the first Day of *Trinity* Term following; and that that Officer, which shall not bring or send in all his Rolls of the said several Terms at the Times aforesaid, shall pay to the Clerk of the Essoins for every Roll brought in after, xi d. according to the ancient Rule of this Court: And whereas the Plea-Rolls of this Court have not of late Years been brought to the Clerk of the Essoins to be bound up at the Time they ought to be; It is hereby likewise ordered, that the Plea-Rolls of every Term hereafter shall be brought in to the Clerk of the Essoins within three Weeks after the End of the Term following; and in Default thereof there shall be likewise

An Alphabetical Dogget to be made under Penalty of 100 Pounds.

But when Rolls are brought late in, the Clerk hath noe time to make such Doggets.

Ordered, How the Officer shall deliver the Rolls to the Clerk of the Essoins.

And how the Plea-Rolls of every Term shall be brought in to the said Clerk.

I paid

paid to the Clerk of the Exchequer for every Plea-Roll brought in after, 12 d.

Geo. Treby. Job. Powell.

Ed. Newill. Tho. Rokeby.

July 142.

Rules to be observed in the Court
of Common Pleas, in the Pro-
ceedings upon Declarations deli-
vered to Prisoners in Custody in
Country Gaols.

Declaration
when to be
delivered.

Affidavit of the
Delivery before
Rule to appear
and plead.

Entry of Ap-
pearance, &c.
upon Delivery
of Declaration
before Mensim
Pascha, &c.

1st, THAT no Copy of any Declaration
shall be delivered to a Prisoner in
Custody until after the Process, upon which
such Prisoner shall be taken or charged in
Custody, be returnable.

2dly, That no Rule shall be given for the
Defendant in Custody, to appear and plead
to any Declaration against him, until an
Affidavit be filed with the proper Secondary
of the Delivery of the Copy of such De-
claration, and of the Time when, and the
Person to whom the same Copy was deli-
vered; and a Copy of the said Affidavit
shall be produced to the Prothonotary be-
fore Judgment signed, together with a Cer-
tificate from the proper Officer, that no
Appearance is entered with him.

3dly, If a Copy of the Declaration be
delivered, before Mensim Pascha or Crastin-
num Animarum, and Affidavit thereof made
and filed, and the Defendant doth not enter
his Appearance with the proper Officer,
within

within ten Days after *Easter* or *Michaelmas* Term respectively, Judgment may be entred against him upon the Certificate, as aforesaid, if Rules have been given; but if he doth not enter his Appearance, as aforesaid, before the End of ten Days after the Term, he shall Imparl until the next Term, unless the Action be in *London* or *Middlesex*, and the Defendant be in Prison within forty Miles of the City of *London* and *Westminster*; then though he doth appear before the Expiration of ten Days after the End of the Term, he shall plead two Days before the Essoin-Day of the next Term, and in Default thereof Rules having been given, Judgment may be entred against him, as aforesaid.

Judgment for
want of a Plea;

4thly, If a Copy of the Declaration be delivered on, or after *Mensem Pascha* in *Easter Term*, or *Croftinum Animarum* in *Michaelmas Term*, or in *Hillary* or *Trinity Term*, and the Plaintiff thereupon shall give Rules to appear and plead, if the Defendant enter his Appearance two Days preceding the Essoin-Day of the next Term, he shall Imparl until the said next Term: But if he doth not appear within that Time, Judgment may be entred against him, as aforesaid.

Declaration de-
livered on or
after *Mensem
Pascha*, &c.

5thly, If the Writ be returnable in one Term, and a Copy of the Declaration be delivered before the Essoin-Day of the next Term, the Plaintiff in such next Term may give Rules to appear and plead; and if the Defendant doth not enter his Appearance, and plead by that time that the Rules are

Writ return-
able one Term;
and Declara-
tion delivered
before the Es-
soin-Day of the
next.

The Rules and Orders of

out, Judgment may be entred against him, as aforesaid.

Declaration to
be entred or
left in the Of-
fice and when.

6thly, If the Declaration be not entred or left in the Office before the End of the next Term, after the Writ or Process (by which the Prisoner shall be taken or charged in Custody) be returnable, and an Affidavit made and filed in Manner aforesaid, before the End of twenty Days after such Term (*Easter* Term excepted, and within ten Days after *Easter* Term) the Prisoner shall be discharged upon the Entring of his Appearance with the proper Officer, by Writ of *Supersedeas* made by him, according to the ancient Practice of this Court.

Attachment a-
gainst Gaoler
or Keeper con-
cealing the De-
claration.

7thly, If any Gaoler or Keeper of Prison, having received a Copy of a Declaration against any Prisoner in his Custody, shall suppress the same, or not deliver it forthwith to such Prisoner, an Attachment shall be issued against him.

*Geo. Treby
Ed. Nevill.
Joh. Powell.
Tho. Rokeby,*

Termino

Termino Pasch. Anno sexto Gu-
lielmi & Mariæ Regis & Reginæ
Angliæ, &c.

Forasmuch as Complaint hath been made unto this Court by the Secondaries of the Compters in *London* and the Under-Sheriff of *Middlesex*, that many Fines have been and daily are passed through the several Offices of this Court, wherein Attorneys are employ'd, or their Names used as Attorneys for the Conusees of the same, who neither do know nor are acquainted with the Parties in the said Fines mentioned, nor cannot or will not give any Account where the Lands and Tenements therein contained do lie, or of the Names of the Tenants in Possession thereof; and others are passed by Attorneys of the Court of King's Bench and Solicitors in the Names of some, who, although they be Attorneys of this Court, live many Miles distant from *London*, and therefore cannot be enquired of touching the Post-Fines thereupon growing due unto their Majesties to be collected and Received by the said Secondaries and Under-Sheriff, by Means whereof in regard that many Purchases

Lond. & Mid.

Upon Com-
plaint of the
Secondaries of
the Compters
in *Lond.* and
Under-Sheriff
of *Mid.* of Fines
pass'd by At-
torneys, &c.
who either can-
not or will not
give a true Ac-
count of the
Lands and of
the Tenants,
&c.

The Rules and Orders of

So that 'tis
very difficult
to find out the
Lands, &c.
and to collect
the Post-Fines
due to the
Crown.

Ordered, That
no Writ of Co-
venant upon
any Fine of
Lands, &c.
within the City
and Liberties
of London or
County of Mid.

Tho' join'd
with Land, &c.
in any other
City or County.

Shall pass the
Return-Office
until a Note
of all Particu-
lars be deliver-
ed.

are made in other Persons Names in Trust
for the real Owners of the Estates, which
pass by the said Fines, and of sometimes of
Rents issuing out of Houses, it is very dif-
ficult, if not impossible for the said Secon-
daries and Under-Sheriff to find out the
Messuages, Lands and Tenements where-
upon the said Post-Fines are to be levied,
or out of what Lands and Tenements such
Rents do issue, or the Persons who of
Right ought to pay the same; so that many
of them are wholly lost, For Remedy there-
of for the future, It is ordered by this
Court, that from henceforth no Writ or
Writs of Covenant upon any Fine or
Fines whatsoever of any Messuages, Lands
or Tenemens, or of Rents issuing out of
them, lying or being, or which shall
therein be mentioned to lie or be with-
in the City of London and the Liberties
thereof, or within the said County of
Middlesex, or either of them, whether the
same shall be of Messuages, Lands or
Tenements in the said City and County,
or either of them singly, or joined, with
any other Messuages, Lands or Tenements
in any other City or County, shall be
returned by the Clerk for the Return of
the said Writs of Covenant of this Court
for the Time being, until the Attornies,
who shall prosecute such Fines, shall give
a Note or Notes in Writing to the said
Clerk, for the Return of the said Writs of
Covenant for this Court or his Deputy, as
well of the Person's Name and Place of
Habi-

Habitation, who is really and properly Attorney to the said Fine or Fines, as of their own Names and Places of Habitation, as also of the particular Street, Lane or Place where such Messuages, Lands or Tenements, or Rents issuing out of the same are situate; and of the Person, or Persons Name or Names who is, or are in Possession of such Messuages, Lands or Tenements, or who is, or are to pay the Post-Fine or Post-Fines thereupon due unto their Majesties. And it is farther ordered, that the present Clerk for the Return of the said Writs of Covenant of this Court, or his Deputy, or the Clerk for the Return of the said Writs of Covenant of this Court for the Time being, his Deputy or Clerk; and all Attorneys of this Court, and others concerned therein, shall and do take Notice from time to time of the due Execution of this Order, and that the said present Clerk for the Return of the said Writs of Covenant of this Court, or his Deputy, or the Clerk for the Return of the said Writs of Covenant of this Court, for the Time being, his Deputy or Clerk, shall carefully keep such Notes or Writings on a File, and do, upon Application unto him or them made by the said Secondaries and Under-Sheriff of Middlesex, or any of them, give unto them or any of them requesting the same from time to time, or suffer them to take an Accompt in Writing thereof, according to the Accompts by

And of the Tenants in Possession, and who is to pay the Post-Fine thereon.

Clerk of the
Return-Office
and his Deputy
to see this Order
duly executed,

And carefully
to keep the
Notes,

The Rules and Orders of

And to let the
Secondaries,
Under-Sheriff
have a true
Account there-
of.

This Order
made a stand-
ing Rule of
Court.

him or them taken in Pursuance of this Order; and that this Order may be made the more Publick, It is further ordered, that the same be made a standing Rule of this Court, and that Copies hereof be affixed and set up in the several Offices belonging to this Court, that all Persons therein concerned may be informed, and take Notice therof.

Per Cur'.

Trin.

Trin. ix Will. Regis.

*Rule to prevent Persons suing out Writs
of Privilege, &c. who are not At-
tornies.*

WHereas notwithstanding the several Orders of this Court made for Prevention of Persons suing out Writs of Privilege, *proprium Capias*, and Attachments at their own Suits, as Attornies of this Court, who never were sworn, or had their Names entred on the Roll of Attornies of this Court, or have discontinued, or had their Names put out of the Roll of Attornies remaining with the Clerk of the Warrants of this Court, and yet have prosecuted such Writs, so as to free themselves from Arrests, or to force Bail where none ought to be given, which Rules and Orders have hitherto proved ineffectual. Therefore for the better preventing the said Abuses, it is ordered, That no Attorney shall for the Future sue forth, or cause to be sued forth in his own Name, or at his own Suit, any Writ of Privilege, Attachment, *prop. Capias*, or other Process; and that no Filazer or Exigenter, Clerk, or other Officer or Minister of this Court, do sign or allow any Writ of Privilege, Attachment, *prop. Capias*, or other such Process; and that the Green-Wax,

The Rules and Orders of

Wax, or Keeper of the Seal of this Court, or his Deputy, do not hereafter seal any Writ of Privilege, Attachment, prop. Capias, or other such Process, unless the same be first stamped or signed by the Clerk of the Warrants of this Court, or his Deputy, for which no Fee is to be paid, to the Intent to shew that such Person is an Attorney of this Court duly entred and continued on the said Roll of Attorneys; and that every such Writ or Process being not stamped or signed, as aforesaid, by the said Clerk of the Warrants, or his Deputy, shall be of no Force to free such Person from Arrests, or to require Bail, or to give any Privilege whatsoever, as an Attorney of this Court.

Per Cur.

Pasch. xiiiij W. 3.

Ordinat' est quod omne Breve de Certiorari à Cur' hic Emanan' & Curie placit' Episc' Elien' de futuro dirigend' antequam sigill' fuerit per unu' Justiciarior' hujus Cur' cum verbis Insula Elien' indors' ejusdem brevis signabitur subter nomen Justic' dict'. Et si aliquod breve de Certiorari emanabit absque tali indorsamento manu propria ejusdem Justic' superscripto non Allocabitur per Judicem Cur' Elien' predict'.

How Writs of
Certiorari, di-
rected to the
Court of Pleas
of the Bishop
of Ely shall be
signed by a
Judge of this
Court.

Per Cur'.

Ed. Nevill.
John Powell.
Jo. Blencow.

Term.

Term. Mich. Ann. 4.

WHereas divers Complaints have been made to us, that many Attornies and Clerks of this Court, are not admitted of any of the Inns of Court or Chancery, according to antient Course and Usage by which they might be resorted to, and Business of Law better managed to the greater Ease of the Queen's Subjects, the Neglect whereof is to the great Detriment and Decay of the Societies of the Law, and divers Inconveniencies do thereupon daily happen, for Prevention whereof, and to establish a Remedy for the Future,

Ordered by the Court, that Attornies, &c. shall cause themselves to be admitted of some Inns of Court, &c. and take Chambers, &c. or else Lodgings in some convenient Place near, except, &c.

It is ordered by this Court, that all Attornies and Clerks of this Court not already admitted into one of the Inns of Court or Chancery, shall procure themselves to be admitted into one of the said Inns of Court (if those Honourable Societies shall please to admit them) or into one of the Inns of Chancery before the End of *Trinity-Term* now next ensuing, and take Chambers there (if conveniently they may be had) else that they take Lodgings in some convenient Place near the said Inns, and leave Notice in Writing with the Butler or Porter of such Inn whereof they are admitted, where their Lodgings or Habitations are, except such Persons who are, or shall be hereafter Inhabitant

bitants or House-keepers in *London, Westminster, Southwark, or the Suburbs thereof, and Liberty of the Tower of London and St. Katharine there, and such who are sworn Attorneys of any Courts within the said Cities, Town and Liberties.*

And it is further hereby ordered, that for the Future, no Person whatsoever shall be sworn an Attorney, or admitted or entred a Clerk of this Court (except the Persons before excepted) unless first admitted of one of the Inns aforesaid, and bring and produce at the Time of his being sworn an Attorney, or admitted or entred a Clerk, as aforesaid, a Certificate under the Hand of the Treasurer or Principal of the Inn whereof he is admitted, which they are respectively to give, without being paid any Thing for the same, testifying such his Admission; which Certificate every Attorney so sworn shall deliver to the Clerk of the Warrants of this Court; and every Clerk of this Court so admitted or entred, shall deliver to the respective Prothonotary, of whose Office he shall be admitted, to be by the said respective Officers filed, before the Name of such Attorney, shall be entred into the Roll of Attorneys, or such Clerk admitted or entred, as aforesaid; unto which File of Certificates the respective Treasurers and Principals of the said Inns of Court and Chancery shall or may from Time to Time resort, as they shall see Cause, without paying any Thing for the same.

That none shall be sworn an Attorney, &c. unless so admitted, and produces a Certificate to be filed. To which the Treasurers and Principals may resort.

And

The Rules and Orders of

None to put himself out of the first Society until admitted in some other.

And it is further ordered, that no Attorney already sworn, or Clerk already admitted or entred, or which hereafter shall be sworn, admitted or entred, and which are or shall be admitted into any of the Societies aforesaid, shall put himself out of the Society whereof he is, or shall be admitted, until he be admitted of some other of the said Societies, and deliver to the Treasurer or Principal of such Society whereof he was first a Member, a Certificate in Writing, signed by such Treasurer or Principal, testifying his being admitted of such other Society, except such Person shall totally leave off the Practice of the Law, as an Attorney or Clerk in this Court.

And whereas by the Usage, Custom or Orders of the Inns of Chancery, the Members thereof were obliged to, and did come into Commons and continue therein, according to the Orders of such Society, to their great Ease in transacting their Causes one with another, and much Benefit to their Clients; but of late most or a great Number of the said Attorneys and Clerks have neglected to come into Commons, or continue therein according to the respective Orders of the said Inns of Chancery, to the great Decay and Detriment of those Societies.

Also ordered, that the Attorneys, &c. shall come into and continue in Commons, &c. under a Penalty till Obedience.

It is further ordered, that the Attorneys and Clerks, which now are or shall be admitted into any of the Inns of Chancery, do, and shall come into and continue in Commons for the Time or Times, as by the Orders of such Society, whereof they are or shall be admitted, is, are, or shall be ordered,

ordered, limited or appointed for them so to do, and in case any Attorney or Clerk aforesaid shall offend against this Rule, or any Part thereof, such Attorney shall be put out of the Roll of Attorneys, and such Clerk so offending, shall be discharged and displaced from such Office to which he belongs, until he or they give Obedience to this Order; and the respective Prothonotaries and Clerk of the Warrants of this Court, and all other Officers whom it may concern, are hereby required to give Obedience to this Order, and see that the same, as to themselves, be duly observed.

And for the more effectual and better putting in Execution this Order, and that it may procure the Good hereby designed and intended,

It is hereby further ordered, that the respective Treasurers and Principals of the Inns of Chancery, and the antient Rulers and Governors of the same, do, and shall from Time to Time, by such Ways and Means as they shall see fit and convenient, procure and get a List of the Names of such Attorneys and Clerks of this Court, who are not admitted of any of the said Inns of Court or Chancery, which List the said Treasurers and Principals, antient Rulers and Governors shall yearly in Michaelmas-Term, deliver unto the Right Honourable the Lord Chief Justice of this Court for the Time being, to the Intent the Offenders against this Order may be compelled to give Obedience to the same.

The Treasurers,
Or, to give a
List of such as
are not so ad-
mitted.

And

The Rules and Orders of

As also a List
of such as rude-
ly practise, to
the End they
may be pro-
ceeded against,
&c.

And it is also hereby further ordered,
that the said Treasurers, Principals, An-
tients, Rulers and Governors, in like Man-
ner procure and get a List of the Names
of such Persons as take upon them to
practise as Attornies or Clerks in this
Court, who are neither sworn Attornies,
or admitted or entred Clerks in any of
the Offices of this Court, which List is
to be delivered as above, to the Intent
that such Offenders may be proceeded
against in such Manner as shall be thought
fit.

Tho. Trevor.

Jo. Blencow.

R. Tracy.

De

De Termino Sancti Hill. Anno nono
Annae Regiae.

In Case of Trial at Bar the Plaintiff's Attorney shall give timely Notice to the Court of the certain Days such Trials are to come on.

Whereas Rules for Trials at the Bar of this Court are usually granted one or more Terms before such Trials are appointed to be had; and that the Writs of *Habeas Corpora* for Summoning the Juries for such Trials, are made out upon *Venires* made out returnable in the preceding Term. So that the Attorneys for Plaintiffs in such Trials, have always Opportunities of giving timely Notice to this Court of the certain Days when such Trials are to come on. And forasmuch as their neglecting to give such Notice is found to be to the Prejudice of other Suitors in this Court. Now for the preventing of any Prejudice or Inconvenience that may happen from such Negligence, It is ordered by this Court, that the Attorney for the Plaintiff in every Cause, which in such Case shall come to be tried at the Bar of this Court, shall before the Escoin-Day of the Term, in which such Cause shall be appointed to be tried, give Notice to the chief Prothonotary of this Court or his Secondary, of the Day on which such Cause is to be tried,

K. tried,

tried, that the same (as is usual) may be put down in the Court-Book provided for that Purpose. And in Case such Attorneys shall neglect so to do, that then without Motion, and the special Direction of this Court, such Causes shall not be tried that Term, any Precedent Rule or Practice to the contrary notwithstanding.

Dc Termino Sancti Hill. Anno nono
Annæ Reginæ.

*For Settling the Time when a Nonpros
may be signed for want of a Decla-
ration.*

WHereas divers Disputes and Contro-
versies have arisen in this Court
touching Nonprofes, signed for want of De-
clarations, in what Time after the Return
of the Writ the same may be signed, or
what Time the Plaintiff has, after the Re-
turn thereof, to deliver his Declaration, or
of leaving the same in the Office before he
shall be nonprost for Want thereof. Now
for the avoiding all such Disputes, and for
reducing the Practice herein to a Certainty,
It is ordered by this Court, that upon all
Process returnable the first or any other Re-
turn

turn in any Term, the Plaintiff shall have Liberty to the End of the next ensuing Term, to deliver his Declaration to the Defendant's Attorney, or of leaving the same in the Office, and the Defendant's Attorney having entered his Appearance with the proper Officer, as of that Term in which the Process is returnable; and at the End of the ensuing Term, or in four Days after the End thereof, having given a Rule to declare in the proper Office, and having called on the Plaintiff's Attorney or Clerk in Court (if he can be found) the Defendant any Time in the Vacation of such ensuing Term, after the Rule for declaring is out, may sign his Non-pros for want of a Declaration, and not afterwards, and the Plaintiff shall not without the Leave of the Court, have any longer Time to declare in than as abovesaid, other than the Time to be limited by the Defendant's Rule, any Rule or Practice to the contrary hereof notwithstanding.

Pasch. ix Annæ Reginæ.

*For preventing the Mischiefs arising
from Rasures made in the Days and
Years of the Captions of Fines.*

W^Hereas by an Act made in the three and twentieth Year of the Reign of Queen Elizabeth, It was amongst other Things enacted, That every Person, who should at any Time hereafter take the Knowledge of any Fine, and should certify the same, that such Person should with the Certificate thereof certify also the Day and Year when the same was knowledged; and that no Person, who should take any such Knowledge of any Fine should be bounden, or by any Means enforced to certify any such Knowledge, except it were within one Year next after the said Knowledge taken. And that no Clerk or Officer should receive any Writ of Covenant, whereupon any Fine was thereafter to pass, unless the Day of the Knowledge of such Fine should appear in or by such Certificate upon Pain of forfeiting five Pounds. And whereas, contrary to the Intent and Meaning of the said Statute, the Days and Years of the Captions of several Fines have been rased and altered after the same have been acknowledged, and other Days and Years inserted, and which sometimes have appeared to be after the Deaths of

of the Conusors in such Fines, by Reason whereof several Disputes have arisen, great Delays have been had in the passing such Fines, and that several Fines have been vacated thereupon. Now for the preventing the like Mischiefs and Inconveniences for the Time to come, It is ordered by the Justices of this Court, that for the future, no Fine whatsoever taken and acknowledged before any Commissioners, by Virtue or Colour of any Special *Dedimus pofstatem* to them directed, do pass the Queen's Silver-Office, and the Queen's Silver of such Fine, be recorded, unless Oath be made before the Lord Chief Justice, or some other Justice of this Court, of the due Execution of the said Fine; and also of the Day and Year when each Conufor sees executed the same, where a Rasure in the Day or Year shall appear in the Caption thereof; and that no Fine so acknowledged before such Commissioners in Case of such Rasure, be received and entred by the Clerk of the Queen's Silver of this Court, before there be an *Allocatur* reciting the Day and Year of each particular Conufor's Acknowledgment, under the Hand of the said Lord Chief Justice, or some other Justice of this Court for the passing of the said Fine first had and obtained. And it is further ordered, that no Fine whatsoever taken and acknowledged before the said Lord Chief Justice, or any Judge of Assize, or Sergeant at Law, if the Date of the Caption of such Fine shall appear to have been erased, do for the future pass the Queen's Silver-Office, and the Queen's Silver of such

The Rules and Orders of

Fine, be recorded by the said Clerk of the Queen's Silver, before there be an Order under the Hand of the said Lord Chief Justice, or some other Justice of this Court, for his passing and entring such Fine first had and obtained. And it is likewise order'd, that after any Fine whatsoever shall have passed the said Queen's Silver-Office, and the Queen's Silver of such Fine, be recorded, that neither the Precipe or Caption of any such Fine or Writ of *Dedimus potestatem*, or Writ of Covenant, by which any such Fine be passed, shall be rased or altered before there be an Order under the Hand of the said Lord Chief Justice, or some other Justice of this Court, for the doing thereof, and for the amending of all Entries made from such Writ or Writs first had and obtained.

Per Cur^r.

T. Trevor.
J. Blencowe.
R. Tracy.
R. Dormer.

De

De Termino Sancti Hill. Anno nono
Annæ Reginæ.

For Settling the Practice in Relation
to Prosecutions on Bail-Bonds.

WHereas several Motions have been made in this Court against the undue Prosecutions had upon Bail-Bonds, in having the same put in Suit before the Defendants could have a reasonable Time of putting in Bail in the Original Actions; and the Time for putting the said Bonds in Suit not appearing to be fixt and limited, whereby the Practice of the Court in that Case is become doubtful and uncertain. Now for the Information of all Practisers touching the same, this Court doth think fit, and so order, that no Bail-Bond taken in *London* or *Middlesex*, and by Virtue of any Process issuing out of this Court, shall be put in Suit till after four Days exclusive of the Appearance-Day of every Return, upon which the said Process shall be returnable, and that no Bail-Bond taken in any other City or County, by Virtue of such Process, shall be put in Suit till after Eight Days exclusive of the Appearance-Day of any such Return, upon Pain of having

all Proceedings made upon such Bail-Bonds to the contrary thereof, upon Motion made to this Court for that Purpose, set aside with Costs.

De Termine Sanctæ Trinitatis Anne secundo Georgii Regis.

In Com. Banco. WHEREAS in divers Actions and Suits commenced in this Court, the Plaintiff many Times in Pleading concludes *ad Patriam*, and the Defendant not being obliged to join Issue, nor demur till a four Days Rule is expired, Plaintiffs are thereby greatly delayed in trying their Causes; for the Prevention of which for the future it is ordered: That in all Cases where the Plaintiff concludes *ad patriam*, the Defendant's Attorney or Clerk in Court, shall be bound to accept of Notice of Trial upon the Back of such Pleading, whether the same be delivered to the Defendant's Attorney or Agent, or left in the proper Office, where the same may be left by the Course of the Court. And such Notice of Trial so given or left as aforesaid, shall be as good and effectual as if Issue had been actually joined.

P. King.
Jo. Blencowe,
R. Tracy,
Robert Dormer,

De

De Termino Sancti Mich. Anno
quinto Georgii Regis.

IT is ordered this Term by the Court,
that no Countermand of Trial at the
Assizes shall be good, unless Notice be gi-
ven two Days before the Commission-
Day,

N. B. No Countermand to be given on
Sunday.

Hill, sexto Georgii Regis.

In Com. Banco. **W**Hereas by a Rule of this
Court made in Trinity-
Term, in the second Year of the Reign of
his Majesty King George, it was ordered, That
in all Cases where the Plaintiff concludes *ad
Patriam*, the Defendant's Attorney or Clerk
in Court, shall be bound to accept of Notice
of Trial upon the Back of the Pleading,
whether the same be delivered to the Defen-
dant's Attorney or Agent, or left in the pro-
per Office, where the same may be left by
the Course of the Court: And such Notice
of Trial so given, or left as aforesaid, shall
be as good and effectual as if Issue had been
actually joined. And whereas it appears,
That notwithstanding the said Rule, the
Plaintiffs in divers Actions and Suits com-
menced

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menced in this Court are delayed, for that the Defendants' Attorneys are not obliged to take the like Notice of executing Writs of Enquiry: It is therefore hereby ordered, That in every Cause where the Plaintiff concludes *ad Patriam*, and giveth Notice of Trial on the Back of his Pleading, pursuant to the said Rule; if the Defendant doth not join Issue on such Pleading before the Rule be out, that in every such Case after Judgment obtained, the Defendant's Attorney shall be obliged to accept Notice of executing a Writ of Enquiry, from the Time that Notice of Trial was given on the Back of such Pleading as abovesaid.

P. King.

Jo. Blencowe.

R. Tracy.

Robert Dormer.

Hill. sexto Georgii Regis.

In Com. Banc. **W**Hereas there have been great Neglects in entering Appearances for Defendants, and in entering Special Bail upon Record; it is hereby ordered for preventing the same: That all Rules and Orders of this Court heretofore made, relating to the Premisses, shall from henceforth be punctually observed, and the Pains and Penalties therein contained shall be inflicted on Offenders: And for the farther enforcing the said good Rules and Orders already

ready made, it is hereby farther ordered, That from and after the last Day of this present *Hillary-Term*, every Attorney of this Court accepting or subscribing any Warrants to appear for any Defendant, to any Writ issuing out of this Court, shall within four Days after the Appearance-Day, to the Return of every such Writ in *London* and *Middlesex*, and within eight Days after the Appearance-Day in every Writ, in any other County, enter the Appearance of such Defendant with the proper Officer: And if any Attorney accepting any Warrant to appear, or subscribing any Process or Warrant to appear, do not enter such Appearance within the Time aforesaid, he shall for such Offence be liable to an Attachment, and shall not be discharged therefrom till he hath paid full Costs to the Plaintiff, for the Prosecution on such Attachment; and the Defendant, when he appears, shall be compelled to plead, as of the Time when he should have pleaded, if his Appearance had been duly entered. And it is likewise further ordered, That all Bails taken by Commissioners, pursuant to the Act of Parliament for taking Special Bails in the Country, shall be transmitted to the Lord Chief Justice, or to one of the Justices of this Court, viz. every Bail taken within forty Miles of *London*, within ten Days after the Caption thereof, and every Bail taken above forty Miles from *London*, within twenty Days after the Caption thereof; unless all the Justices shall be in their Circuits; and then as soon as any one of them shall be returned to *London* out of his Circuit, being the Time

pre-

The Rules and Orders of

prescribed by the Orders of this Court, to be observed by the Commissioners; and after such Transmission, shall be forthwith delivered to, and filed with the proper Officer, to be entred upon a Record, or otherwise it shall be as no Bail; and the Plaintiff is at Liberty to proceed on the Sheriff's Bond, as if no such Bail were ever put in; and the Defendant, in Case he be admissible to plead to the Original Action, shall not be admitted so to do, unless he first pay the full Costs to the Plaintiff for the Prosecution on the Bail-Bond; and plead as of the Time when the Bail should have been duly entred.

P. King.

Jo. Blencowe.

R. Tracy.

Robert Dormer.

De Termino Sancti Hillarii Anno
Octavo Georgii Regis.

*Sheriffs, &c. to make due Return of
any Process, &c.*

WHereas great Delays have been occasioned to the Suitors of this Court, by Reason that Sheriffs, Under-Sheriffs, and their Deputies, Bailiffs, Coroners, Bailiffs of Liberties, and other Officers and Persons having Return of Proces; issuing out of this Court,

Court, do not in due Time make a Return of such Process, or of the Warrant or Precept thereupon, by which Means great Expences are occasioned, and Plaintiffs delayed in their Recovery of their just Debts; for the Prevention therefore of the like Delays for the Future, it is ordered by this Court, That from and after the last Day of this present *Hillary-Term*, that if any Sheriff, Under-Sheriff, or any of the Officers or Persons above-named, or any Officer or Person, having the Return of any Process issuing out of this Court, or of any Precept or Warrant thereupon, shall neglect or refuse to return the same within six Days next after Service of a Rule of this Court for that Purpose, such Sheriff, Under-Sheriff, and every other of the above-named Officers or Persons shall be liable to pay the Costs occasioned by such Neglect, to be taxed, any Rule or Order of this Court to the contrary notwithstanding.

In six Days af-
ter Service of a
Rule of Court.

If not, to pay
Costs.

P. King.
Jo. Blencowe.
R. Tracy.
Roberts Dormer.

Notice is hereby given to the Attornies and Practisers in the Court of Common Pleas at Westminster, that the Right Honourable Sir Peter King, Knt. Lord Chief Justice of the same Court, hath ordered, that no Recipients shall be allowed to be entred

The Recipient
be entred, un-
less the Record
of *Nisi prius* be
broughte into
Court before
the Sittings.

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entered for the Sittings of *Nisi prius* after every Term, unless the Records of *Nisi prius* and Writs be made up and brought into Court on or before the Days and Sittings respectively.

Robert Maidstone, Dep. Cl. Thes.

De Termino Paschæ octavo Georgii Regis.

videlicet 11/4.

Rules to be observed for discharging Prisoners out of the Fleet, &c.

WHeras many Doubts have arisen on the Rules for discharging Prisoners committed to the *Fleet-Prison*, County, and other Gaols, and for discharging Persons rendering themselves, or being rendred to the *Fleet-Prison*, in Discharge of their Bail (by Virtue of Proces of this Court) by *Superfedeas* for Want of Prosecution; for Remedy whereof, it is ordered by the Court, That if any Plaintiff shall declare against any Defendant in Custody of the Warden of the *Fleet*, or of any Sheriff, or other Officer,

Prisoner discharged, if Defendant proceed not in three Terms after Declaration.

I
ad or before the said Term by

by Virtue of any Process of this Court, and shall not further proceed to Judgment within three Terms after such Declaration delivered, inclusive of the Term in which the Declaration shall be delivered, the Defendant having appeared. Or if any Plaintiff having obtained Judgment in this Court in any Action against any Defendant a Prisoner, as aforesaid, and shall not charge such Defendant so remaining a Prisoner, in Execution upon the Judgment so obtained, within two Terms next after such Judgment so had and obtained, including the Term in which the said Judgment shall be signed; or within two Terms now next ensuing upon Judgment already had, then such Defendant so remaining in Prison may be discharged out of Custody, where he shall be so detained by *Supersedeas*, to be allowed by one of the Justices of this Court, if Cause shall not be shewn by the Plaintiff, or his Attorney, why such Plaintiff had not proceeded before that Time to Judgment and Execution, as aforesaid, upon Notice to either of them given by the Defendant's Attorney or Agent, and Oath made of such Notice given. And if any Defendant hath, or shall render him or her self to be rendred to the *Fleet-Prison*, in Discharge of his or her Bail, at the Suit of any Plaintiff, where no further Proceedings by Declaration has been had against such Defendant so rendred, before such Render, unless the Plaintiff shall declare against such Defendant within two Terms after such Render; and where any Declaration hath been delivered against such Persons so rendering

Or got Judg-
ment, and not
charg'd in Ex-
ecution in two
Terms, unless
Cause be
shewn.

Or Defendant
render himself
to discharge
his Bail, at su-
ita.

The Rules and Orders of

dring him or her self, or being rendred, of Judgment has been had against him or her before such Render, unless the Plaintiff shall proceed to Judgment upon such Declaration delivered within three Terms after such Render, (the Defendant having appeared) and charge such Defendant in Execution within two Terms after such Judgment obtained, such Defendant may be discharged out of Custody, by *Supersedeas*, to be allowed by one of the Justices of this Court, if Cause shall not be shewn to the contrary, as aforesaid, by the Plaintiff, or his Attorney, upon Notice to either of them, given by the Defendant's Attorney or Agent, and Oath made of such Notice given.

P. King.
Jo. Blencowe.
R. Tracy.
Robert Dormer.

Term Mich. i Georgii 2di Regis:

TO establish the Practice of this Court, upon the late Act of Parliament, for preventing frivolous and vexatious Arrests:

It is Ordered, That from and after the last Day of this present Term, in all Causes where a Copy of the Process of this Court is serv'd upon any Defendant, or Defendants, and an Appearance is entered for such Defendant or Defendants; by the Plaintiff's Attorney, pursuant to the said Act, the Plaintiff's Attorney, in such Case, shall leave a Copy of the Declaration in the Office, and likewise give Notice thereof to the Defendant or Defendants, by delivering an English Notice; written in Secretary Hand, to such Defendant, or Defendants, or by leaving the same at the last, or most usual Place of Abode of such Defendant or Defendants, signifying the Nature of the Action, at whose Suit it is prosecuted; and in whose Office such Declaration is left: And that, in case of special Writs, returnable the first Returns of Hillary and Trinity Terms; and the first or second Returns in Easter and Michaelmas Terms; such Defendant or Defendants should take Notice, that unless such Defendant or Defendants plead to such Action within four Days after the Appearance-Day of the Return of such Writ; and in Case of a common Capias, or any other special Writ; within the first four Days of the next Term; Judgment will

Stat. 12 Geo.
cap. 29.

After the last Day of Michaelmas Term; where the Plaintiff appears for the Defendant, a Copy of the Declaration shall be left in the Office, and an English Notice in Secretary, deliver'd to the Defendant; or left at his last or usual Abode:

Signifying the Nature of the Action; at whose Suit prosecuted; and in whose Office the Declaration is left; and that unless such Defendant (in Case of special Writs returnable the first Return in Hill. or Trinity, or the first or second Return in Easter or Michaelmas Term) plead in four Days after the Appearance-Day of the Return, Judgment will be entered by Default;

The Rules and Orders of

But in Case of a common Capias, or of any special Writ not returnable as aforesaid, within the first four Days of the next Term Judg-
ment will be enter'd by Default. Declaration deem'd well de-
livered from the Time of such Notice. And if the Defendant does not plead in Time (a Rule being given to plead) the Plaintiff may sign Judgment. Notice in Writing of executing a Writ of Inquiry given to the Defendant, or left at his last or usual Abode suffi-
cient.

After the last Day of this Term, the Rule of Trinity Term discharg'd.

be entred against such Defendant or Defendants by Default.

And from the Time of giving such Notice as aforesaid, such Declaration shall be deemed well deliver'd to such Defendant or Defendants, and not otherwise.

And in Case such Defendant or Defendants, after such Notice given, do not plead by the Time the Rules for Pleadings are out, the Plaintiff in such Case may sign his Judgment (a Rule to plead being first given) without any other or further calling for a Plea, and thereon give Notice of executing his Writ of Inquiry, either by delivering Notice in Writing to such Defendant, or Defendants, or by leaving the same at the last or most usual Place of A-
bode of such Defendant, or Defendants; which shall be a sufficient Notice to such Defendant or Defendants of the Time of Executing such Writ of Inquiry.

And it is further Ordered, That from and after the last Day of this present Term, the Rule made the last Trinity Term, to es-
tablish the Practice of this Court upon the said late Act of Parliament shall be discharg'd.

R. Eyre.
Rob. Price.
Alex. Denton.
S. Cowper.

Term.

the Court of Common Pleas:

147

Term. S'ti Hillar. Anno 2do Georgii
2di Regis.

WHEREAS Complaint hath been made unto this Court of unwarrantable Practices, in regard to Declarations in Ejectment, brought and deliver'd to the Secondaries of this Court in order to have Rules to Plead. For Remedy thereof, It is Ordered, by the Court, that from and after the first Day of February, in this present Term, no Declaration in Ejectment shall be taken in, or receiv'd by any of the Secondaries of this Court, unless such Declaration or Declarations be signed by some Serjeant at Law, and deliver'd by himself to one of the Secondaries in open Court. And it is further Ordered; That the Secondaries shall, in the Morning next after the End of every Term, and at all other Times, when requir'd, produce and shew to any Person or Persons who shall demand the same, their Alphabetical Paper of Ejectments mov'd or deliver'd into Court, in each Term, in Manner aforesaid.

R. Eyre.
Ro. Price.
Alex. Denton.
J. Fortescue A.

L 2

Mich;

Mich. t'tio Georgii 2di Regis.

IT is Ordered, That upon all Process sued out of this Court, returnable the first or second Return of any Term, if the Plaintiff declares in *London* or *Middlesex*, and the Defendant lives within four Days after such Declaration delivered, without any Imparlane, and such Declaration may be delivered *de bene esse*, and in case the Plaintiff declares in any County, or the Defendant lives above twenty Miles from *London*, the Defendant shall plead within eight Days after the Declaration delivered, without any Imparlane; and in Default of Pleading, as aforesaid, the Plaintiff may sign his Judgment.

R. Eyre.

Ro. Price.

Alex. Denton.

J. Fortescue A.

Pasch.

Pasch. tertio Georgii 2di Regis.

IT is Ordered, That all Declarations in London or Middlesex, delivered pursuant to the Rule of this Court, made the last Michaelmas Term, on Process returnable the first or second Returns of any Term, where the Defendant lives within twenty Miles of London, shall be delivered with Notice, that the Defendant or Defendants, plead to such Action, within four Days after such Declaration delivered: And that all Declarations where the Plaintiff declares in any other County, or the Defendant lives above twenty Miles from London, such Declaration shall be delivered, with Notice to plead, within eight Days after such Declaration delivered. The Rule made in Michaelmas Term, in the first Year of his present Majesty's Reign, to establish the Practice of this Court, upon the late Act of Parliament, for preventing frivolous and vexatious Arrests to the Contrary thereof, in any wise notwithstanding.

R. Eyre.
Ro. Price.
Alex. Denton,
J. Fortescue A.

Trin. tertio & quarto Georgii Se-
cundi Regis.

IT is Ordered, That from and after the last Day of this present Term, if Special Bail put in by the Defendant be excepted to, the Defendant shall perfect his Bail within four Days after Exception taken; in Default whereof the Plaintiff may proceed upon the Bail-Bond.

Mich.

Mich. quinto Georgii Regis 2di.

WHEREAS many Inconveniencies have happened to the Suitors in this Court, by Attornies neglecting to file their Warrants of Attorney; by which Neglect Judgments have been reversed, and Plaintiffs have lost their Debts. To prevent the like Inconvenience for the Future, It is Ordered by this Court, that from and after the first Day of the next Term, no Judgment whatsoever (except Final Judgments upon *Postea*, Writs of Inquiry, and *Non-pros*) shall be signed by any of the Prothonotaries of this Court, unless the Stamp of the Clerk of the Warrants of this Court, be first impress'd on the Paper whereon such Judgment is to be signed, whereby it may appear, that Warrants of Attorney are duly filed.

R. Eyre,
Ro. Price.
Alex. Denton.
J. Fortescue A.

the first time in the history of the world, that
the people of the United States have been
able to elect a President by a majority of their
electoral votes, without the support of a
majority of the popular vote.

Michaelmas Term; in the Sixth Year of the Reign
of our Sovereign Lord King George the Second.

WHereas, by a Rule of this Court, made in
Hillary Term; in the Sixth Year of the
Reign of the late King George the First, It was
among other Things, Ordered, That all Bails
taken by Commissioners, pursuant to the late Act
of Parliament for taking Special Bails in the Coun-
try, should be transmitted to the Lord Chief Ju-
stice, or to one of the Justices of this Court, *viz.*
Every Bail taken within 40 Miles of London, with-
in 10 Days after the Caption thereof, and every Bail
taken above 40 Miles from London, within 20
Days after the Caption thereof, unless all the Ju-
stices should be in their Circuits, and then as soon
as any of them should be returned out of his Cir-
cuit; and after such Transmission, should be forth-
with delivered to, and filed with the proper Of-
ficer, to be entred upon Record; or otherwise it
should be as no Bail; and the Plaintiff at Liberty
to proceed on the Sheriff's Bond, as if no such
Bail were ever put in. And whereas the said
Rule hath proved ineffectual, and several Abuses
are daily committed by Defendants Attorneys sup-
pressing such Bails, or neglecting to file the same
by the Time limited in the said Rule, to the
manifest Wrong and Injury of the Plaintiffs in
such Actions, and in Contempt of this Court;
now for the Remedyng thereof, it is Ordered,
That from and after the last Day of this present
Michaelmas Term, all Bails taken before any
Commissioner in the Country, shall be transmit-
ted and filed with the proper Officer, according to
the said Rule, and that no such Bail shall be re-
ceived or filed, unless the same be transmitted
within the respective Times appointed by the said
Rule, without Leave of this Court first had and
obtained.

Bail taken by
Commissioners
to be trans-
mitted in 10
Days, if with-
in 40 Miles of
London, and
20 Days if as
bove.

Otherwise
shall not be
received or
filed without
Leave of the
Court.

* * *
The

The same Term.

To the Bail taken by the Sheriff be put in above, yet they may be excepted against,

WHereas it has been usually practised in this Court, in all Cases where Bail Bonds have been taken, that if the Bail taken by the Sheriff be put in above, that such Bail shall not be excepted against, but shall stand good and absolute; and whereas such Practice hath been found to be inconvenient in many Instances: *It is therefore ordered* by the Lord Chief Justice, and the rest of the Justices of this Court, that from and after the last Day of this present Term, in all Cases wherein Bail Bonds shall be taken, and the same Bail is put in above, the Plaintiff may except against such Bail.

By the Court.

The same Term.

WHereas great Delays have been occasioned by Defendants Attorneys not delivering Demurrer Books in due Time to the two puiss^e Judges of this Court. *It is ordered*, That from and after the last Day of this Term, the Plaintiff's Attorney shall deliver all the Demurrer Books to the Lord Chief Justice, and the rest of the Justices of this Court, and the Defendant's Attorney shall pay the Plaintiff's Attorney for two of the said Books, two Days at least before the Day appointed for arguing such Demurrer; and the Defendant shall not be heard by his Counsel, when the Cause comes on to be argued, unless such Payment be made as aforesaid.

By the Court.

The same Term.

Judgments to be signed only in the Prothonotary's Office.

IT is Ordered by the Lord Chief Justice, and the rest of the Justices of this Court, That from and after the last Day of this Term, all Judgments signed in Causes depending in this Court, shall be signed in the Office of one of the Prothonotaries of this Court, and not elsewhere.

By the Court.

The same Term.

It is Ordered by the Lord Chief Justice, and No Attorney
the rest of the Justices of this Court, That to be Bail.
from and after the last Day of this Term, no Attorney of this or any other Court, or any Person
practising as such, shall be Bail in any Suit or
Action depending in this Court. *By the Court.*

The same Term.

*W*hereas the Rule made in Trinity Term, in Bail on Writs
of Error to be
perfected in
the Third and Fourth Years of his present
Majesty's Reign, for obliging Defendants to per-
fect their special Bail within four Days after Ex-
ception taken, has answered the Ends for which it
was made; but no Provision has been yet made,
touching Bail put in on Writs of Error. *It is*
therefore Ordered, That in all Cases where Bail
shall be filed on Writs of Error, such Bail shall
likewise be perfected within four Days after Ex-
ception taken thereto, or in Default thereof the
Clerk of the Errors of this Court shall Non-Pross
such Writ of Error. *By the Court.*

The same Term.

*W*hereas many Inconveniencies happen in *No Bailiff, &c.*
Causes depending in this Court, by reason *shall be Bail in*
that Sheriffs Officers, Bailiffs, and other Persons
concerned in the Execution of Process, offer them-
selves, and are permitted to be Bail in many Ac-
tions, and for great Sums of Money; now for
Prevention of the like Mischief and Inconveni-
ence for the future; *It is Ordered by the Lord*
Chief Justice, and the rest of the Justices of this
Court, That from and after the last Day of this
present Term, no Sheriff's Officer, Bailiff, or o-
ther Person concerned in the Execution of Process,
shall be permitted or suffered to become Bail in
any Action or Suit depending in this Court.

By the Court.
Notices

Notices fixed up in the Prothonotaries Offices.

Hilary the 7th of King Geo. II.

ATtorneys are desired to observe, That in Notices to appear, to be served upon Defendants, with Copies of Process, pursuant to the late Act of Parliament; the Day of the Return of such Process must be inserted, though it happens to be upon a Sunday.

Michaelmas the 8th of King Geo. II.

TO ascertain the Practice of this Court, concerning the Time for the Delivery, and Demand of Declarations and Pleadings, and the serving of Notices of all Kinds; It is Ordered by the Lord Chief Justice, and the rest of the Justices of this Court; That henceforth all Declarations and Pleadings shall be delivered, all such Demands made, and all Notices given before Eight of the Clock in the Evening.

Michaelmas the 1st of King Geo. II.

DEclarations, Pleas, Replications, and other Pleadings, and also *Oyer* of Writs, Bonds, and other Deeds, shall be demanded by a Note in Writing.

Michaelmas the 4th of King Geo. II.

ATtorneys of this Court are desired to take Notice, That the Court will enlarge no Rule for shewing Cause, unless Notice be given of Motion to enlarge such Rule, and Affidavit made of such Notice. And likewise, that the Court will not set aside any Judgment for Irregularity, unless Motion be made to the Court for that Purpose, before a Writ of Inquiry executed.

NOTICE is hereby given, That whoever would be admitted an Attorney, must apply for that Purpose, before the last Week in Term.

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